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WITH A MONOGRAPH ON THE
POSSIBLE EXTENSION OF THE HUMAN LIFE CYCLE

PART II
A SUPPLEMENT ON
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ANNOUNCEMENT OF CHANGE OF EDITORSHIP

130 THE officers of the Academy desire to announce that Dr.
Thorsten Sellin of the University of Pennsylvania has been elected
Chairman of the Editorial Council of the Academy and Editor of
The Annals. The officers of the Academy desire to avail them-
selves of this opportunity to express to Dr. Clyde L. King, the
137 retiring editor, a deep sense of appreciation of the many years of
efficient service rendered to the Academy and, at the same time, to
bespeak for Dr. Sellin the coöperation of those who have heretofore
143 assisted in the development of the Academy's publications.

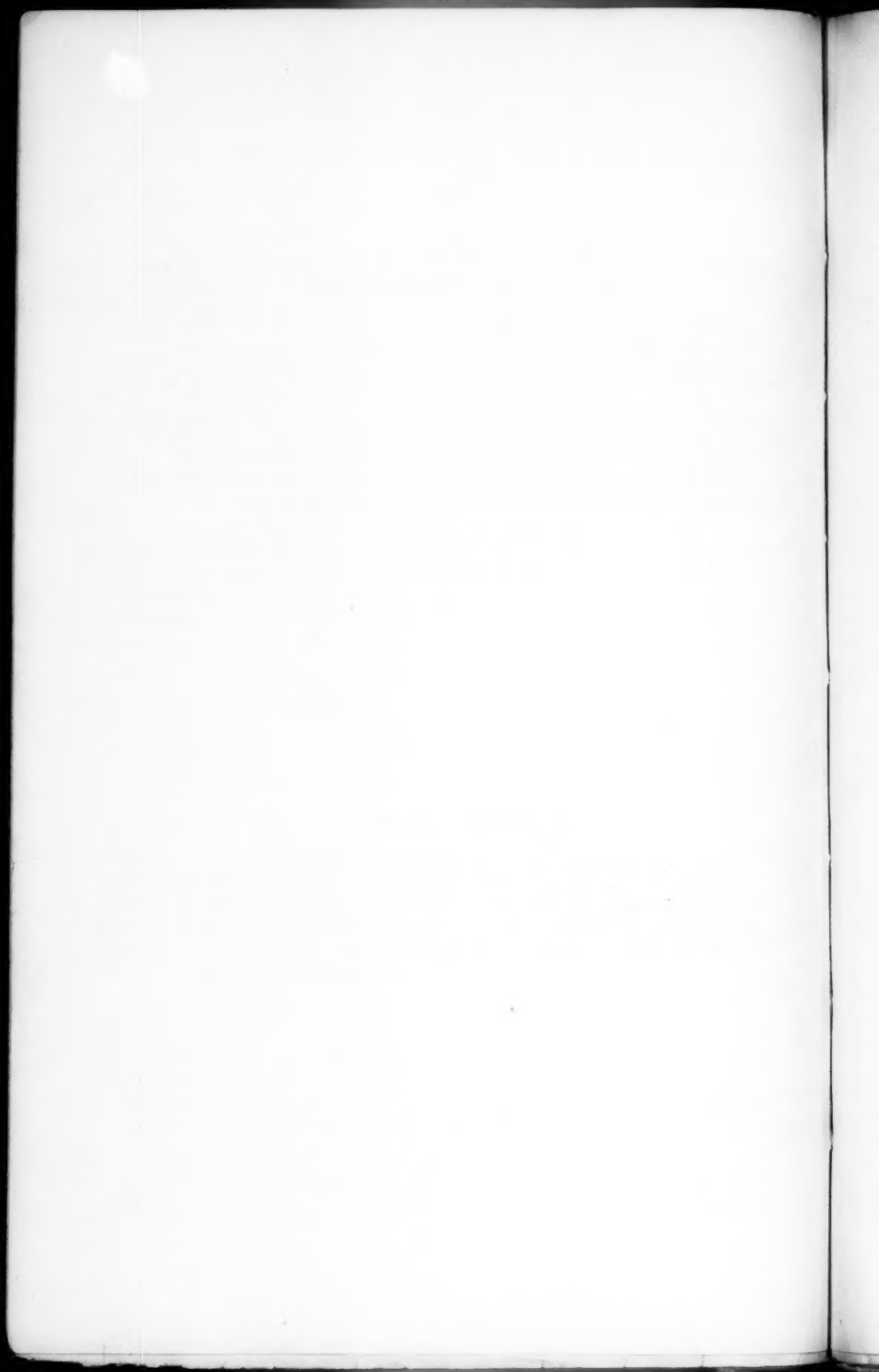
L. S. ROWE,
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EDITOR'S NOTE

IT is with pleasure that I acknowledge to Professor Clyde L.
King, the former editor of *The Annals*, my indebtedness for his
work in planning this volume and several of the volumes to be is-
sued during the coming year. To him, therefore, should go what
credit the editor-in-chief may properly assume.

THORSTEN SELLIN.



FOREWORD

THIS volume has been prepared with the definite purpose of laying before the legal profession, the social work group and other interested persons, in untechnical language, an interstitial field in human welfare lying between those covered by the law on the one hand and by social work on the other. The method of approach treats both these groups as concerned with the solution of specific human problems and the consequent amelioration of the condition of the common man. Our task is to portray not the way in which law solves legal problems within the field of law, not the way social agencies solve social problems within the field of social work, but the heretofore inadequately charted field where the individual suffers from conditions not solely in either field, and both law and social work are required to work together to effect a complete solution. It is a discussion of relationships.

There are many human difficulties in this field. A claim for wages earned but not collected may be a legal problem in one sense. The consequences to the wage earner and his family are often social and economic. A woman deserted by her husband, with her children around her, may present a legal problem in so far as the law is called upon to arrest the husband and force him to support his family, but the immediate responsibility of caring for the family, giving them medical and financial assistance and advice, is largely social. Similarly, groups of persons, for instance, immigrants, present, in the process of Americanization, certain difficulties to be dealt with at the same time by law—others that must be treated by educational, psychiatric, economic and social agencies.

The lawyer is called on for legal advice or action, the social agency for food, clothing, shelter, advice and guidance of other sorts.

Each case represents one person suffering from various problems. If the treatment he receives from the legal counselor, while good in itself, is unrelated to the aid from social agencies, the individual may suffer more than he gains. If the social solution indicates that some result is desirable for the victim, regarding him and his problems as an entity, common sense would indicate correlation between his legal and his social advisers so that the final result may be beneficial.

In the past, for various reasons, there has been a lack of correlation and many individuals have suffered. Much of the misunderstanding has arisen because there was no common ground where the two groups could meet and each learn about the aims of the other. So we have limited this book to a brief survey of the way in which law touches social welfare and what is being done for the individual.

More concretely, we are interested in the relationship between law and social work, in the legal-social field, in the problems that arise and the machinery already devised to give us a better understanding of this phase of human activity.

For some time it has been apparent that while here and there lawyers, social workers, sociologists, medical men recognized such a field, there was comparatively little exploration in it with an eye to devising machinery, discovering what sorts of problems arise, what ought to be done with them, and how social workers and lawyers may be brought together so

that each group may make a more complete contribution to the welfare of the community.

The ladies and gentlemen who have accepted the Editor's invitation to write for this volume are each actively interested in one or another phase of this interstitial field between law and social work. Each one has practical experience and writes with authority. It is only fair to say that the writers did not know what their colleagues were saying, as there was no opportunity for collaboration or ironing out differences in advance of publication.

There will be inevitably some differences of opinion expressed in the various articles, but it is equally proper to say that anyone who will read the entire volume will find several fundamental lines of thought running through it. The variety of topics and points of view help to check the reader's judgment and thus give him a broader basis for his own personal opinion than would be the case if one man wrote the entire book.

No one knows, as yet, all the limits of this legal-social field, so the present volume does not pretend to say everything that might be, or in due time will be, said on the subject. In effect, it is a pioneering effort on the part of twenty-one persons to view the field in a preliminary way. Many of the articles recommend certain specific steps forward. The reader should consider these recommendations with care as it is a fair conjecture that they are sound.

The Editor has encouraged each contributor to write his own article in his own way, and there has been no revision to force divergent views into a single harmonious picture. The subject is too new for us to lay down rigid rules and classifications. There is, of course, a certain amount of overlapping, but by the division of topics an

effort has been made to reduce this to a minimum.

Two of the fundamental lines of thought are as follows: (1) Law and social work do not at present complement each other entirely to secure the public welfare. Each goes its own way. Yet each group is beginning in an experimental fashion to push out machinery, observation posts and explorations toward the other. (2) At the present time the best basis for meeting is the legal aid movement, because it is beginning to cover the field and to offer to the conflicting points of view a forum for impersonal scientific discussion. Social workers persist in considering legal aid a department of social work. Lawyers regard it as a branch of the law. The present Editor is inclined to disagree as well as to agree with both these points of view. To him the field of legal aid appears a separate field of activity, a sort of buffer state, as it were, between law and social work. At the same time it performs the important function of a bridge between the two. It is independent and, at the same time, a part of both its neighbors.

The articles themselves are of unusual interest, many being the first pronouncements on the particular subject. Some disclose how much is being done; others, how little. Our interest in this preface lies in the way in which the sections of the volume are related to each other. The following brief survey is designed to give this general picture.

The Contents of the Volume.—The introductory part of the volume is designed to orient the reader. It treats of the field of legal-social relations in a general way. Logically there are at least three groups interested in this field, and to each it appears from a different angle. The three writers, Judge Lindsey, Mr. Hunter and

Mr. Wardwell, represent the legal, the social and the legal aid approaches to the subject. Their respective points of view are characteristic, to a large degree, of the groups they represent.

These three gentlemen assure us that there is a field of legal-social relations that deserve more study. Perhaps no two agree entirely on method, but that makes their articles all the more interesting.

Judge Lindsey (page 1) looks at the field from the point of view of a lawyer who has had experience as a member of the Pennsylvania Children's Commission, and is, therefore, acquainted with both groups. After explaining the position of the law in its relation to social welfare he urges coöperation, saying "that the law may frequently be the most efficient ally of the social worker."

Mr. Hunter (page 7), Superintendent of the United Charities of Chicago, has in his organization a Legal Aid Bureau which coöperates with the social workers. He is concerned with the aspect of the problem from the social work standpoint. He locates the social workers in relation to the field and shows why this group is beginning to feel that more should be done in conjunction with the law. He notes several obstacles, but is particularly impressed with the efforts now being made toward accomplishing a closer relationship.

Mr. Wardwell (page 12), from his wide experience as a lawyer and as president of the largest law office in the world, the New York Legal Aid Society is qualified to speak of law and social welfare from the legal aid standpoint. He balances nicely the desire of the legal aid society to handle the social problems of its clients as against some of the factors which will hinder progress unless carefully watched and guarded against.

Part I is entitled *The Growth of the Field of Legal-Social Problems*. This might have been phrased, The growth of recognition that there is such a field. No effort is made to give a complete survey, because everyone realizes that, as yet, no one knows what the extent of that field may be.

It seemed wise to devote three papers to the subject, one treating of the historical steps by which people recognized there were problems which required law and social work together to solve. The second discusses the related field of psychiatry which is closely allied to the medical profession. Its effects upon the legal-social field are of such a nature, however, that it must be kept well in mind. The third article takes up another phase in the growth, the transfer of the support for many activities in the field from private to public responsibility. Thus far we may say that the authors agree there is a legal-social field and that it grew out of the peculiar social and economic conditions of the United States.

Mr. Kelso (page 17) tells us of the two fields of law and social work "now converging toward a common method with a common goal." He explains this tendency on the basis of the historical development of the two. He traces each through various phases of growth, comments upon the

social changes in American life which have marked our phenomenal transformation from wilderness to old world congestion

and finally notes certain "examples of this growing correlation."

Dr. Overholser (page 23) makes it clear that "some knowledge of the offender's mental process is, or should be, of interest and value to the court as an aid to the intelligent administration of the case." He is concerned with the growing recognition of this fact

which forces upon the court a consideration of the legal-social field. After due consideration of the arguments for and against, he comes to the conclusion that

Psychiatry has already demonstrated beyond doubt that it has a contribution to offer to an intelligent administration of criminal justice—knowledge of the individual, without consideration of which the full accomplishment of justice and of social defense can not be attained.

Mr. Johnson (page 31), speaking from experience as a probation officer, notes the growth of public agencies to care for various matters in this legal-social field. He then weighs some of the merits and disadvantages of the publicly as against the privately controlled agency, and concludes by saying that

Need of the hour is not for the addition of new burdens but rather a compelling demand for the improvement of standards within the sphere where public responsibility has already been assumed.

Without any effort further to cover the historical side of the question *per se* we come now to two sections of the volume which are devoted to some of the machinery devised by lawyers and social workers to get further into this interstitial field. On the legal side we find legal aid societies in civil and criminal cases, specialization in various types of cases and observation posts for gathering facts. On the social work side the three topics of delinquents and corrections, children and family matters are discussed with a final article on the technique involved in getting facts. First we consider what the law is doing to affect a correlation with social work.

Part II is entitled, *Contributions to the Field Made from the Legal Side*. After an introductory article on legal aid work Mr. Pfeiffer (page 50) speaks of what the legal profession is doing in

the criminal courts to assure the accused, the court and the public a fairer system of trial. Mr. Pfeiffer recognizes the "cruel lust" of certain persons who observe the spectacle of a man being tried for a crime. He insists that there is need for a defender—either public or private—to represent poor persons accused of offenses, "to revitalize the meaning of that profoundly significant phrase 'the due administration of the criminal law.'" Such an official will accomplish a high ethical basis for the defense, an immediate and impartial investigation of the facts, a fair trial, and an individualized sentence. These surely make a substantial brief in favor of the "defender."

Mr. Horovitz (page 62) takes up the question as to whether a poor man gets a fair trial if some one says, "Well, we'll give him a lawyer—any kind of a lawyer will do." In this day of specialization in the great professions one is inclined to wonder what value it is to a poor man to have a lawyer who is a specialist in income tax matters when the case involves the collection of a wage claim before a magistrate. Mr. Horovitz, an expert in workmen's compensation cases, shows clearly that "a fair trial" must include representation by a lawyer who knows thoroughly how to handle the particular type of case. He urges specialization as a means to secure "the better publicity that naturally follows good work," "new and improved legislation," "closer connections between social agencies and legal aid societies."

Mr. Smith (page 55) considers "the laborious and unromantic process of fact gathering and recording." He recognizes the legal aid society as a machinery for this purpose.

Already these legal aid offices have dealt with nearly three million cases and each year approximately one hundred and sixty

thousand persons apply to them for help. Here in embryo is the same opportunity for diagnosis and study that our great hospitals have for years afforded to medical science. In the near future it should be possible for the legal aid organizations each year to collect, analyze, and summarize for public guidance the evidence afforded by two hundred thousand actual cases as to how the law is performing its all-important task of protecting and promoting individual and public welfare.

The subject of gathering facts is so important that another article is included on the work of crime commissions. Mr. Morse and Dr. Moley (page 68) point out that

what is most needed is not merely a study of laws but of laws in operation, not merely rules of procedure but the manner in which these rules are used in the actual trial of cases.

While Mr. Smith's article deals with civil cases, the present article shows how a body of facts is being built up concerning the criminal law.

This article provides a graceful transition to the types of machinery erected upon ideas arising rather from the social work group than from the law. While the machinery of juvenile courts and domestic relations tribunals is undoubtedly legal it is, nevertheless, significant of the growing interest by social workers in legal resources.

Part III is entitled, *Contributions to the Field Made from the Social Work Side*. It has not been possible in a single volume to cover the ground completely. So an effort has been made to consider specific groups of persons known to social work in which there are likely to arise many cases with problems where the law applies.

The first of these is in the field of delinquents and corrections. While Mr. Morse and Dr. Moley considered crime from the legal side, Dr. Kirchwey (page 74) looks at it from the social

side. Beginning with the public interest in prison reform, this writer traces the steps of the social worker toward correctional institutions, parole, probation and socialized courts. He says,

Everywhere we are hearing of surveys of criminal justice, directed, for the most part, by eminent members of the legal profession, but with social workers gathering the really significant data of causation and consequences.

The second field of social work here discussed is that occupied by children's agencies. The great net work of laws relating to children, to child labor, to education, to probation from vice and crime bring up all sorts of legal-social problems. Mr. Murphy (page 80) reveals how one great movement in adapting law to the special needs of children has met with profound difficulties in administration. He points out how the country has failed to note the weak points in the field of the Juvenile Court. Few lawyers practice in those courts. There is danger that legal rights will be overlooked. This is serious because of the vast army of children—future citizens who for better or for worse pass through such courts. Are they receiving the protection to which they are entitled? The article is a challenge.

The third group of problems in this section relate to the family. The present article by a lawyer is significant because it gives us new light on the problem of the deserting husband and the law. Mr. Zunker (page 98) describes the work of the interesting National Desertion Bureau and then proceeds to give us an analysis of a group of actual cases which came before him for solution in 1926. The result is an interesting cross-section of answers to such questions as "Why men leave home?" The author also shows the type of data one may collect

by a year after year scientific search for data. As Mr. Zunser says,

A more detailed study of the twenty thousand cases on file in the Bureau archives should be a tempting morsel for some fact-hungry research worker and should have some value to those dealing with this problem.

Finally in this part, Miss Waldo (page 105) speaks of her experience in studying cases which come before the Voluntary Defenders' Committee of the New York Legal Aid Society. Step by step she discusses what kinds of facts are necessary to a thorough knowledge of the case, how to secure them, how to evaluate the personal element in the case. Her conclusion is,

It is necessary in the broader field of legal aid that more than the immediate legal problem should be thought of; and the achievement of this community-mindedness can best be brought about by the inclusion of social workers on the legal aid staff.

It must be admitted that much remains to be done both by lawyers and social workers before the field common to the two can be covered. One of the difficulties, as Miss Waldo points out, is the small number of people trained to do this sort of work. Naturally one's thoughts turn to the efforts being made to train individuals to work in the field.

Part IV is entitled, *Efforts to Reach a Better Understanding of the Legal-Social Field*. It might have been called, *What the Schools are Doing to Educate Persons in This Direction*. The law schools, schools of social work and departments of sociology are the natural places to look for action.

Dean Miller (page 114) outlines some of the newer ideas of the law schools. He says,

The easiest method for law schools to use is to train expert mechanics in running the machinery of justice as they find it.

But a change has come over the face of legal education and

there is every reason to hope that twenty or thirty years from now the bench and bar of the United States may have dressed up its ranks and reassumed its social leadership.

Mr. Pray (page 121), speaking from the standpoint of the schools of social work, says that they are now entering a period of development

in which social workers, surer of their own techniques, more aware of their own limitations, more humble in the face of massive social movements, intrenched institutions and group habits, return to a serious study of this historic and powerful factor (the law) in the social adjustment of human beings.

He believes that the relationship of law to social work and the proper perspective on all these institutions will occupy distinct space in the future curricula of schools of social work.

Finally Professor Gillin (page 125) gives us the attitude of the departments of sociology of some of the universities. His findings, the results of a questionnaire to 74 universities, are interesting.

The returns showed only one university in which courses were given jointly by the department teaching sociology and the law school.

But again the prospect is not discouraging.

From the survey, therefore, it appears that coöperation has begun between sociology and law chiefly in criminology and in the field of the family.

He is hopeful of a closer contact in the future.

As a result of the three foregoing papers we may regard it as clear that there has been all too little academic effort to prepare people for the legal-social field. The obvious question, then, is whether in practice men and women are doing much. This brings us to the last section.

Part V is entitled, *The Legal-Social Field in Practice*. It is designed to consider something of the atmosphere in which these problems arise to which the two professions of law and social work must bend their joint efforts. Of the three articles one deals with the situation in a large city, the second with rural conditions, and the third with the ever present problem as to where the money is to come from to finance further enterprises.

Judge Cobb (page 130) has just completed a valuable study of legal aid and legal-social conditions in New York City, seeking to draw into a better understanding of their mutual obligations the various legal and social agencies of the city. His comments are, therefore, peculiarly timely. For instance, he shows that of all legal aid cases in New York City in 1926 only 7.2 per cent were referred to the societies by social agencies. He notes the likelihood of "lack of coöperation, misunderstanding and actual conflict" between the two groups. The group in New York have established a special organization where joint meetings may be arranged between the two groups. Other cities are now watching the New York experiment with great interest.

Mrs. Hay (page 137), in contrast to Judge Cobb, writes about conditions in a rural county where there is no joint forum for lawyers and social workers. She paints a clear picture of a countryside where individualism is carried to a degree of all too little interest in the welfare of one's neighbors, in unwillingness to prosecute some of the laws or invoke their protection, because of fear of consequences of people who believe in hex doctors, pow-wow and witchcraft. Her conclusion based on intensely practical experience is,

In this program of social betterment in rural communities the law is always the

basis and foundation of social work and should be more available to the average citizen than is at present the case.

Mr. Norton (page 143) to complete the volume has contributed a very valuable statement of the sources from which funds may be expected to finance legal-social matters. His conclusion is interesting,

Whenever the public comes to have greater confidence in the law and in the lawyer for adjustments of a thousand petty but vicious injustices in our society, a veritable sluice-way will be opened for self-support (of legal aid work) and with it a possibility of useful service unknown today.

In surveying the volume we find many divergent points of view, but it is clear that to care for this field of human activity involves a distinct and urgent task of social engineering. The need to keep the law close to the individual is of the greatest importance. Only by eternal vigilance, by impartial gathering of facts, by a careful weighing of inferences, by constant experimentation and adjustment of legal machinery to individual cases, by keeping always an open mind and co-operative spirit will real progress be made. There is every reason for hopefulness, as these articles show.

The Editor has found all the papers of great interest and believes that they will make a similar impression on the general reader. Deep appreciation is due the ladies and gentlemen who contributed so generously out of their own busy lives, time and experience to prepare their respective points of view. The Editor desires to acknowledge particularly his indebtedness to Mr. J. Prentice Murphy for valuable suggestions as to the form and substance of the volume.

JOHN S. BRADWAY.

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A Lawyer Looks at the Field of Legal-Social Work

By EDWARD LINDSEY

Former Judge, Court of Common Pleas, Warren County, Pennsylvania

SOcial work is in itself a broad term but it covers substantially, I suppose, what was generally referred to not so many years ago as "charities and correction." It grew out of and developed from the desire and effort by some who were better circumstanced to assist those in distress. It deals not so much with members of society in general as with the relatively few who are exceptionally unfortunate, economically in particular.

I am not attempting a definition of the field of social work nor do I desire to attempt a definition of the field of law; but it may be useful, at the outset of a survey of the territory where the two fields overlap, or perhaps better, interpenetrate, to devote some attention to the nature and function of law and to state a few points at which social work comes in contact with it.

ATTITUDE OF SOCIAL WORKERS

It seems that frequently social workers are inclined to regard the law as an obstacle to be surmounted or gotten around rather than as a guide or assistance to proper action. If some procedure that has suggested itself in a given situation turns out to be in conflict with some provision of the law the tendency is to set down at once that particular legal provision as an evil to be combated rather than to consider the possibility that it reveals a defect in the proposed action which calls for some other solution being found.

This attitude toward law is by no means peculiar to social workers; indeed it is a common and prevalent one at the present day. Social workers

are perhaps especially apt to fall into it from the fact that most of the people with whom they are called upon to deal are in a more or less exceptional social situation and legal rules are, of course, general in form and are formulated from the standpoint of the mass of individuals in society. But the aim of the law is social welfare just as that is the aim of social work, though the means and methods by which the law pursues this aim have been largely standardized and stereotyped.

ELEMENTS OF LAW

Leaving aside for the present the question of what justification there may be for such an attitude in any particular case it is important to note that it is largely due to viewing law as made up of independent and unrelated rules and pronouncements, and the neglect to recognize that the law is a system of related and interdependent rules and principles. The term law is apt to make us think of concrete prohibitions and commands which the state purports to enforce by some punishment visited on their violation. In short we think of law as legislation and indeed as that relatively small part of legislation which the state assumes to make prevalent by force.

And yet the key-note of law is order and not force. The uniformities of conduct which have grown up and become habits and then, approved by experience, have become conscious customs make up the great body of the law. It is true that there is great activity in legislating at the present day but this relative prominence of

legislation is of recent growth, is due to historical causes and will probably not be permanent.

When Justinian's commissioners, in 530 A.D., required a definition of law with which to begin the Digest of all previous legal writings which they compiled, they selected a passage from Demosthenes' speech in the case of Aristogeiton which had then been current for nine hundred years and which is still significant for us. It runs,

This is law, to which it is proper that all men should conform, for many reasons, chiefly because every *nomos* [rule of law] is a discovery and gift of God [or "gods"], an opinion of sensible men, a restitution of things done amiss, voluntary and involuntary, and a general compact of a polis in accordance with which it is proper for all in that polis to live.¹

We can recognize these elements of law, upon reflection, today no less surely than was done over two thousand years ago. If we no longer attribute legal rules to direct, separate inspirations of a deity or deities we nevertheless realize that the fountain-head of law is found in principles of religion and morality. Law has become secularized and specialized but its branches spring from the same trunk as do the precepts of morals and religion and the respect which we accord it is to a degree based on this relationship. While they do not occupy precisely the same field, not only can there be no real opposition between law and morals but their connection and mutual support are apparent and it is precisely where this is most clearly seen that the precepts of both are unquestioned.

Then, law is the opinion of sensible men, operating to effect the restitution of things done amiss, not only with intention but by circumstance. The

¹ The translation is by Prof. J. L. Myres—*The Political Ideas of the Greeks*, p. 309.

formulation of rules and their application to particular instances in the affairs of men by judges who give their reasons for the judgments which they render has been and still is the method by which law is expressed in language and progressively supplemented and modified so as to mould individual and group action fairly to accord with the requirements of life in society at all periods of its development. The concept that there is an underlying natural order in human affairs no less than in other departments of nature emerged from the speculations of the early Greek philosophers. The view that this natural order can be discovered, expressed in language and applied to particular cases, was developed by the Stoic philosophy and passing over into Roman law furnished the theoretical basis on which the juriconsults, the first professional lawyers, formulated the rules of Roman law and built them into a legal system for the Roman Empire which not only outlasted that political organization but is today a living part of much of the law of the modern world.

And then law is the agreement of those composing the social organization to which each member of the organization should conform his conduct. The actual customary ways of behavior, at first habitual only, then formulated in conscious thought and affirmed as being the product of experience, furnish the foundation course of the edifice of every legal system. So the actual ways of behaving to which experience has led the social group, subjected to the reasoning process in the light of the ideals of social justice by judges trained in this process furnish us with the great body of our rules of law.

LEGISLATION

But we have said no word of legislation which somehow today is what is

popularly envisaged as law. When social groups were small they could meet together, consult on the conduct of the social organization and make determinations in regard to it; but always their action was guided by and subordinate to the law. As a matter of course, then, the officials of this organization were bound by law in their administrative activities. This is not to say that it did not happen that the normal rule and theory was not sometimes disregarded. When a military leader ruled according to his own arbitrary will in disregard of law he became a tyrant and obnoxious to all Greeks. When the small Roman community expanded to take a large part of the ancient world into its citizenship the impossibility of assemblage and concerted action led to the conferring of the *imperium*, the authority of the people, upon the head of the state; but he was no less conceived of as subject to the law, nor was the assumption by the Emperors of the power to change the law ever regarded as legitimate. Feudal lords were as much subject to law as their vassals and when increasing power led them to disregard it, they were called to account, as was King John, by the English barons at Runnymede.

The rise of the national state with its centralization of administration led the strong national rulers of the seventeenth and eighteenth centuries to arrogate to themselves, not only political power, but power over the laws. The revolutions which followed did away with such claims but the bodies of elected representatives of the people now appropriated them. Tacit acquiescence was largely due to the fact that judges, while professional lawyers, had been appointees of the monarchs and in the reactionary period were still distrusted. A limited field, into which the "legislatures" were

forbidden to enter, was erected by the adoption of written constitutions and the development of constitutional law.

But the great mass of the activities of representative bodies are administrative in nature and if in theory they may make rules of law, in practice this activity is subject to considerable modification by the judges. It is impossible to foresee the varied sets of facts to which a general rule may be claimed to apply. The application of a statute to particular cases must be made by the Courts and they must so construe the statute as to effectuate the general aims of the law as far as possible. They must fit it into the existing system as best they can and fit it to varying situations as they arise. The mere reading of a statute, therefore, may not convey an adequate understanding of the law on some subject; the construction of the statute by the Courts must also be known.

It will be seen, therefore, that the law is the accumulation of the results of human experience in the business of living together in societies, constantly modified and expanded by the exercise of reasoning in the light of ideals and in connection with the concrete facts of actual situations. It will be seen that its rules are not isolated pronouncements, but form a comprehensive system conservative of the social organization, the functioning of groups and the free activities of individuals. This legal process has elaborated a technique for absorbing into the legal system, with as little dislocation as may be, the occasional, relatively isolated legal pronouncements of legislatures.

In periods of active social change, when new ideas are rife and social ideals are changing, there is much legislative activity. The law is conservative since its main function is to

preserve the results of experience, and its criticism of their value is measured by the established standards of social ideals. The advocate of change resorts to legislation regarding the law as too conservative; and yet, it must be remembered, that this legal conservatism is our chief means of preserving social experience and keeping a reasonable degree of continuity in organized social practice. Without it, in periods of social ferment, too rapid change would reduce the legal system to chaos. Theories, no matter how attractive, must be tested by experience. Our theories, scientific or otherwise, are tentative only, and we find we must constantly change and modify them in the light of experience. The weakness of "law-making" is that it embodies in too rigid and sweeping a formula what is generally only a theory, the value of which can only be known by the test of experience. It is an experiment. Excessive use of legislation is the main cause for the "disrespect for law," so often adverted to nowadays. For the law that we respect is the law that has stood the test of experience in actual social life and has been generally accepted as in accord with the customary standards of living and of morality of the great mass of those who make up a given society. No other "law" can be or will be respected.

OBLIGATIONS OF THE SOCIAL WORKER

The social worker, then, is under the obligation to guide by the law his activities in the field of social work no less than his individual activities as a citizen. Furthermore, in the interests of those he is seeking to benefit he will find it necessary to take account of the legal rules applicable to their situations. If he proceeds in ignorance or disregard of the law he may jeop-

ardize the intended benefit. For instance, children's agencies frequently procure the adoption of children by foster parents because the question of custody of the child is thereby solved but with scant attention to the legal requirements involved if only the entry of a decree by the Court can be procured. But suppose a jurisdictional requirement has been disregarded and the decree is subsequently held void, perhaps after the death of the foster parent and at the instance of one who will thus inherit in place of the adopted child. Have the interests of the child been adequately cared for? Or suppose the decree has been procured by the suppression or misrepresentation of essential facts with the attendant possibility of the voidance of the decree at some future time. Have the interests of any of the parties involved been intelligently dealt with?

Many situations met with by the social worker call for competent legal knowledge and advice just as others call for medical services, for instance. There is need, then, for coöperation between the law and social work. The growth of legal aid work is one evidence of increasing recognition of this fact. With the acceptance by the social worker of the obvious truth that where the matter in hand has a legal aspect the requirements of the law should be ascertained, it will be seen that the law frequently has valuable assistance to offer to social work. Instead of an obstacle it may be an efficient aid.

Moreover, this is not to say that social workers should not have their own views and opinions. The presentation of the social work point of view may be of value to a court in the consideration of a case. Nor is the persistence in his opinion of the social worker in the face of an adverse decision to be

deprecated. Legal aid work may here be of much value. Comparatively few cases on questions which most affect social work get into the appellate courts and the decisions of the lower courts are often conflicting. This is not surprising since judges are human and hence unconsciously prone to finding reasons for deciding in favor of the side which arouses the sympathies. Yet the decisions which seem right in special cases may not produce the most just legal rule in the long run. It is highly desirable that the legal questions arising in social work be carried to the courts of last resort when the matter is sufficiently debatable. Nor even yet need the social worker, any more than the individual litigant, yield his own opinion but, on the other hand, he is equally bound to accept the result in that particular case; nor is he any more justified than the individual would be in terming the law in general unsocial.

The social worker may believe that some particular legal rule which seems well settled by judicial decision should be changed by legislation. But such belief should be tested by adequate investigation of all the legal aspects of the rule in question. We should beware of concluding from a single instance or even a few instances that a particular rule is wrong. Particular cases of hardship are sure to arise under any general rule but the test of the rule's value is whether it adequately provides for the great mass of instances that fall under it. We are certainly too ready nowadays to seize upon theories that have gained a certain currency but are far from being generally accepted and erect upon them statutory rules and procedure. Certain methods of dealing with criminals on the theory that crime is due to heredity furnish a case in point but there are many others. Manifestly

such statutes cannot command general respect and acquiescence and only when scientific theories have stood the test of experience sufficiently to have gained general acceptance should their translation into legal rules even be considered.

If legislation is to be resorted to at all it should only be after careful study of the existing rules of law upon the subject, of the subject matter in all its aspects and of how, as far as may be foreseen, the proposed statute will affect existing practices. New rules need to be carefully articulated with the old ones so that no gaps are left and to be so framed as to effect, if possible, the result intended and nothing else. Changes therefore should be slight and not sweeping at any one time and the operation of the new rule should be observed in practice. Too frequently new statutes produce results that were never intended or foreseen and that are not always wholly desirable. The tendency is to secure the passage of the statute and then assume that the desired result has been attained and nothing else and proceed to take credit for it. It is high time, for example, that indiscriminate congratulation and laudation of the introduction of the juvenile court cease and a careful and thorough scrutiny of the actual operation and results of that system be inaugurated.

Space does not permit of further specification of the points at which social work and the law can and should coöperate with understanding and appreciation of the aims and viewpoints involved. It has been sought to emphasize here the essentially social character of law, its nature as a system and its function in preserving the results of accumulated social experience together with the nature of its methods of growth and change in order to meet changing conditions. It is suggested

that an appreciation of these characteristics of the law suggests the opportunity for constructive coöperation between law and social work at certain

points in what is really a common aim and that the law may frequently be the most efficient ally of the social worker.

The Field Occupied Jointly by Law and Social Service A Social Worker Looks at the Field

By JOEL D. HUNTER

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SOCIAL workers for some years have been looking through a not very well focused lens at the whole field occupied by legal aid law and through a much better focused lens at that part of the field occupied jointly by themselves and the representatives of the law.

Why are social workers interested in these fields of action? Are they not climbing a forbidden fence when they get into the realm of law at all? Can they state any clearly defined reasons for intruding into the area which is pretty well populated with the members of an honored profession?

They have excellent reasons for their interests in these fields.

Some of them will be stated in this paper. There are undoubtedly many other reasons but those that follow are the ones uppermost and of the greatest importance in the mind of the writer.

GENERAL INTEREST

The main reason that social workers have been looking at that particular part of the field of law which is called "legal aid" is because they have a habit of tearing their hair, shouting on the street corners and in general making themselves obnoxious to everyone if they find the community lacking in some resource which every group of people should have.

It has been said that a study of the case records of a family welfare organization would show in any city or town what the social, educational, recreational, medical and legal resources and lacks of that city or town were. Why

would they show these things? Because the case workers are going every day into the homes of the poor. If the garbage is dumped in the alley they smell it. If the bedrooms have windows opening on a narrow vault they see it. If the children of the poor are sick and cannot obtain hospital care, if needed, or bedside care, if at home, they know it.

The problems of the poor become the problems of the social visitors in their homes. Above everything else social workers are friends to their clients. What sort of friends would they be if they did not lend a hand in every problem that arose? That they try to do. There is so much that is beyond their power to undertake that some of the more active ones have been looked upon as meddlers in everybody's business. It is said of many, "What do they know about our world? They had better keep out." We social workers admit that we do not know much about medical care or the proper way to collect city garbage, but we can smell and we know when a person is sick and needs care which we cannot give. This same is true of legal aid. We very soon find out in any community if the poor have no way of getting their "day in court." The lack of legal aid is something to make the social worker become a pest in the community just as the lack of hospitals or nursing organizations would arouse similar feelings. So much for the general, not very well focused, interest in the field of legal aid.

In concluding this first statement it

should be said that we social workers have been slower in recognizing legal ill health than physical ailments. It would probably be more correct to say that we have seen the difficulties but did not realize that the remedy for them was legal and not social. We have not known the workmen's compensation law, the law relating to wage claims, and many similar laws and, therefore, have not known the rights of our clients under these laws. But we are improving. Many different lectures are being given to social workers throughout the country by lawyers. The lectures are to teach what a legal problem is and the proper resource to solve it. But even better yet courses on what has been called "legal aid law" are being given in several different schools of social work in these United States. The next generation will be better informed than the present and I hope will continue to agitate for legal aid until every person in the country, whether rich or poor, can obtain legal advice when needed.

The second question is, Why have social workers any right to be more interested in the field jointly occupied by law and social work than they have in the whole realm of legal aid?

The main reason is that it is jointly occupied. Two people living under the same roof come into intimate contact and if they cannot live harmoniously bedlam results. Lawyers and social workers must work out plans for helping each other for the good of the clients when they are both dealing with the same clients at the same time. If they do not, the clients do not secure the best service. Entire harmony has not yet been reached. Voices are heard saying: "Who do these legal aid lawyers think we are to run errands for them? Why don't they do their own dirty work?" and: "What do you think of that? That social worker tried

to tell me how to handle this divorce suit? Didn't she know I was a lawyer?"

Such remarks never come from the leaders in the professions of law and social work—law is an ancient and honorable profession and social work is a young and ambitious one. These leaders are thinking rather of the best practical methods of coöperation for the benefit of the clients that they are jointly and severally trying to help.

LEGAL PROBLEMS

It is important to understand how these legal problems arise in connection with social agencies. The following examples may serve to indicate both the existence of the legal problem and the necessity of being able to have access to accurate legal advice and to a lawyer who can, if necessary, take prompt court action.

Consider the case of the woman whose husband's relatives secretly have secured custody of the children because they dislike her. Socially, relief of various sorts may be necessary but there is need of a lawyer to assert in court a mother's rights to her own children, unless she is proven incompetent to handle them. Again, take the woman whose husband has been injured or killed in an automobile accident. Representatives of the insurance company which has insured the car press her for her signature to a release in return for a nominal sum. Representatives of ambulance chasing lawyers are equally solicitous the other way. The woman needs good advice from some one in whom she has confidence. But note that it must be good legal advice given by a person familiar with such cases—one who can estimate with some degree of accuracy whether it is worth while to start suit or whether a settlement should be accepted and if so in what amount.

As another illustration consider the family which has received notice by the landlord to vacate the premises. The social agency may supply food or get the man a job. What is necessary is legal advice to determine whether the particular notice is valid; what happens if notice is ignored; what rights the tenant has against the landlord.

Social agencies encounter multitudes of cases of this sort, where an incorrect answer spells disaster to the individual. The questions usually arise in moments of crisis. There is no time to lose. What is to be done? A mistake will shatter the faith of the family in the social agency. The immediate responsibility falls on the social worker unversed in the law to make a decision.

A business corporation facing a similar series of crises from day to day has a legal staff or efficient counsel to give answers. The social agency finds that it needs a similar access to the law. But in their case another difficulty is presented. The law relating to wage claims, to loan shark problems, to practice before a justice of the peace in neighborhood quarrels is not at the tip of the tongue of every lawyer. The questions to be decided call for a specialist who will know not only the law in all its ramifications but also understand what the social agency is trying to accomplish.

The social workers have come to realize this real need.

PROGRESSIVE STEPS

Many progressive steps have been taken to this end. I want here to give the pestiferous social workers credit for taking the initiative in some of the more useful things being done in this field. Briefly, some of the accomplishments are:

1. *Committees.* Nationally, for eight or ten years, there has been a joint

committee of the American Association for Organizing Family Social Work and the National Association of Legal Aid Organizations. This committee has met once a year and has had subcommittees active on various questions. A good deal of time and thought has been put on such subjects as the use of the social service exchange and the later exchange of information between social agencies and the legal aid. Statistics have also been made of the way in which the legal and social agencies use each other. Steps have been taken to stimulate the creation of similar committees in states and cities. Legal Aid organizations have been urged to have social workers on their Boards of Directors and Social Agencies to have lawyers. Educators have frequently met with the committee to discuss both the teaching of law to social workers and social work to lawyers.

2. *Conference Programs.* Various persons have done valiant service in lecturing at State and National Conferences. The committee of the National Association of Legal Aid Organizations in cooperation with Social Agencies has become a kindred group of the National Conference of Social Work and puts on its program in that eleven ring circus. It would be useless to attempt to list other such activities, they are numerous and widespread.

3. *Mutual Confidence.* Legal Aid Organizations trust Social Agencies more than they used to and vice versa. In some cities where they did not recognize each other at all publicly but attacked each other bitterly behind the scenes they are now working hand in hand just as though they had always been bosom friends. In general this increased confidence is shown by the increased reference of cases from one agency to the other, the use of the social service exchange and the ex-

change of information between agencies when it is wise to do so.

One of the honest differences of opinion between lawyers and social workers has been about the exchange of information. Some lawyers in legal aid organizations believe that it would be unethical for them to give confidential information to social agencies. With that in mind a committee of lawyers and social workers studied the matter. The following paragraphs are a summary of their report:

"I sent a short inquiry to a number of Legal Aid Societies and their replies may be summarized as follows:

- (a) All, except one, believe that clearance with Social Service Exchange is not a violation of the attorney's code of ethics.¹
- (b) All, except one, believe that somewhere beyond clearance there is or may be a boundary beyond which an attorney cannot go in disclosing information secured in confidence.
- (c) There is even substantial agreement as to that boundary, it being information given in confidence to the attorney, and for whose transmission to the social worker the attorney can not get the consent of the client.
- (d) And all who take this position agree that it doesn't make much difference practically, because,
 - (1) Consent can usually be secured, or
 - (2) So much is already known by the social agencies or
 - (3) Mental cases present exceptions."

4. *Greater Coöperation.* In certain

¹ Clearance means an inquiry from an agency to a Social Service Exchange, with the understanding that the name shall be looked up in the exchange files and a report made to the inquiring agency, giving names of agencies that have previously inquired about the same family.

types of cases both legal aid and social service are almost invariably needed. In many communities well defined plans have been adopted so that such cases automatically receive both kinds of service. The best example of this that I know of is that of minors' estates as they are handled by the Legal Aid Bureau of the Chicago United Charities and the Family Case Work Department of that same organization. The general superintendent of the United Charities is appointed guardian in many such estates. This means that where there is money or some other form of property belonging to a child the court will appoint a person to hold that property for the benefit of the child—draw checks, pay bills for support and maintenance and render an accounting on order of the court. Often there is no other responsible person to take over such work. All these cases are active in both the legal aid and the family case work departments. The case workers watch over the care of the children, their education, recreation and health as a proper conservator and guardian should. The Legal Aid does all that is necessary before the Probate Court so that the funds are legally administered and the general superintendent protected. The children receive the best legal aid and social service that Chicago can give and from representatives of different departments of the same organization.

Quite recently one of the arbitrators of the Industrial Commission was about to make an award in a death claim. In the hearing of the case evidence was introduced which did not affect the claim but which made the arbitrator feel that the wife of the deceased was not only immoral but also incompetent to handle the award properly for the benefit of her children. Word was sent to the United Charities

and the Legal Aid asking that steps be taken to have the general superintendent appointed guardian so that two things would be accomplished, namely, the funds properly used and the social welfare of the children safeguarded. The action asked for was taken.

Similar coöperation has been developed in other kinds of estates, in some workmen's compensation and insane cases.

This kind of coöperative effort for the good of the clients can, should and will grow.

5. *Literature.* It is doubtful if any enterprise of the present day will make much progress with the people at large unless it is supported by the written word, and to secure adequate literature on any subject it is necessary that people experiment, gather facts and make a record of them.

One of the encouraging elements in the legal social field is the emergence of literature on the subject. At present there are a few books and many

articles. The spirit of these contributions is such as to lead one to assume that shortly we will hear more on the subject and probably much more authoritatively than at present. Now we are beginning to recognize the value of getting the problems and conflicts in point of view where we can have a fair look at them. Such a proceeding is the first step toward a solution.

In conclusion, social workers look at the field of legal aid because they are vitally interested:

First, as all good citizens should be, in desiring that every community have the valuable resource of legal aid—which resource is doing as much if not more than any other one thing to open the doors of justice to the poor.

Second, because they jointly occupy a part of the field with the legal aid lawyers and they would rather live in harmony than in turmoil. That harmony is approaching and is shown by the progress already made.

The Legal Aid Worker Looks at the Field

By ALLEN WARDWELL

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WHAT is the "field" which it is proposed to discuss? Obviously it is the territory in which legal aid workers and social workers find themselves in contact. However, that does not help us very much. Such a definition, if definition it can be called, is much too restricted. What we would wish to discover and to define is the extent of the contact (that is of the "field") which should exist were the work of legal aid and social welfare coördinated on the soundest principles.

THE APPROACH

In order to appreciate the possible boundaries of this somewhat hazy territory, we may examine for a moment the approach to it of the social worker and the legal aid worker. The social worker is the arm of a great system of welfare endeavor, the object of which is not only to relieve the immediate necessities of those who through misfortune, neglect or their own improvident conduct are unable to meet these needs, but to study the conditions presented, in the light of general welfare, so as to advise and adopt sound and constructive measures for the guidance of the family group which will tend to prevent the recurrence of such needs. This system embraces also the consideration of general measures, for the public good and for the care of the less fortunate members of society. Its tendency in modern times has been more and more to seek means to prevent the need of direct charity, and to eliminate the causes for poverty and need. However, the social worker is for the most part engaged in an effort

to adjust the immediate difficulties of some person or of some family under the worker's care. The social worker's contact with the law must of necessity be frequent. A husband has abandoned his wife and children and left them penniless, the worker of the family has been injured, or has been denied his just compensation by his employer, a small estate is to be settled, someone has fallen into the hands of loan sharks or wage purchasers, or fallen victim to some ingenious scheme for the sale of furniture or other necessity or luxury, upon an extravagant installment basis. The proper adjustment of any of these, and of many other situations by legal proceedings or the threat of legal proceedings, might go far towards solving the difficulty with which the social worker is confronted. He and his charges need legal advice, possibly legal action. The law, however, is to be employed only as means to the end, that is the rehabilitation of the family or individual, under the social worker's care. Therefore, justice under the law, as such, is not primarily the social worker's objective. He finds, as do many others, both laymen and lawyers, that the law is slow, full of complications and often unsatisfactory in results.

The approach of the legal aid worker to the field is entirely different. Legal aid is primarily intended to fill a vacuum in the administration of the law. There is no machinery in our legal system for the furnishing of legal advice and assistance to those unable to pay for it. No one can justly contend that the poor person is

not treated with equal justice and consideration with the rich by our courts and administrative officials, but in order to present his plea properly and forcibly the poor person needs the help of counsel; moreover, there are many situations, too well known to need description, where legal advice and guidance, without recourse to the courts, is of the utmost importance. It is this particular field which is legal aid's very own. The legal aid worker is a lawyer, doing the work of any other member of the profession; the only distinction between him and his legal brethren is that he or the society employing him, by reason of the character of the client, receives no compensation or only nominal compensation for his work.

Another principle has been inculcated into the legal aid worker, that is not to regard his clients as subjects of charity. He looks upon and regards them, or should do so, as entitled as of right to the relief which he is seeking for them, and which it is his duty to obtain if he can do so by appropriate legal methods. As a lawyer he is bound by the limitations of the law itself, by the ethics of his profession, by his relations to his fellow lawyers, to the courts and to the organized bar. Primarily, therefore, he is not seeking the sound social solution of the needs and difficulties of a particular client or family, but is endeavoring to obtain the enforcement of a legal right to which he conceives his client is entitled. Whether the success of his efforts will best serve his client, or perhaps his family is not his first concern. This does not mean that he differs from any other lawyer in the handling of his cases, or that he seeks to achieve academic results. It means only that he is endeavoring to solve the particular matter placed before him, and not to relate this problem

to the other social difficulties of his client. In so doing the legal worker feels that he is rendering an important service, which might be lessened should he attempt to broaden the boundaries of his "field" and seek to extend his territory to hazy limits of general welfare or of justice in the abstract. Nonetheless, he is not entirely blind to the other needs of his clients and to some extent, as we shall see, he feels and seeks to aid in the adjustment of those needs.

PARTICULAR RESTRICTIONS

But first let us examine some of the particular restrictions arising out of his profession, which the legal aid worker is under, which are not always clear to the layman and thus often are causes for misunderstanding between legal aid and social workers.

1. Legal aid fills a need in the administration of law; there are plenty of lawyers who will take cases which will pay even small fees—therefore such cases must not be accepted by legal aid. This principle has led to the rejection of cases which would be accepted by practicing lawyers on a contingent basis, thus excluding from legal aid, with rare exceptions, the great field of negligence cases. Perhaps no other single fact is the cause of more dissatisfaction and misunderstanding on the part of social workers. So often the welfare of the family depends upon the result of the compensation of an injured worker, and so often his case has fallen into the hands of an unscrupulous or incompetent attorney. But legal aid is here bound by its relations to the bar; bar associations generally have been jealous of the welfare of their members, and there are too many poor lawyers and too little business to allow any paying business to escape. Legal aid must have the approval of the organized bar; in

many places it depends upon it for support. In this respect legal aid has felt its restrictions and to some extent has tried to enlarge its usefulness.

Much of the difficulty with the social worker, or his ward, has arisen from the fact that there was no method by which reliable lawyers could be retained, rather than from any specific objection to the contingent fee. In some localities, the legal aid societies have provided themselves with a list of reliable attorneys to whom they might refer cases in which a small fee could be paid, or in which the fee would be contingent. In this they have been supported by the bar associations and in some instances, as in New York City, the list of attorneys have been prepared by the Bar Association for the Legal Aid Society's use. In this way the Legal Aid Society is no longer required to turn away an applicant whose case it cannot take without even a word as to where the needed advice or aid could be had, as has so often happened in the past.

Again there is an increasing tendency on the part of legal aid societies to broaden their field somewhat and to adopt the policy of taking cases, which would not be accepted by some *reliable* attorney because the fee may be negligible, rather than to draw the poverty line too narrowly.

In some jurisdictions again legal aid societies are giving advice and representing clients before workmen's compensation boards, and are representing clients in negligence cases involving only small amounts. Thus, with due regard to the peculiar position of their relations to the other members of the legal profession, legal aid workers are enlarging their "field" by putting prospective clients in the way of receiving sound and reliable advice in matters which they cannot themselves undertake. But this seems to be the

limit to which they can go, and social workers should realize the restrictions imposed upon legal aid in this respect. In fact it would be unwise to go further. There is no sound reason why reasonable legal fees should not be paid to the regular practitioner, where the client can afford it.

2. Another limitation upon legal aid not always made sufficiently clear is that the legal aid worker is as much a member of his profession as any other lawyer. Frequently legal aid societies are questioned by social workers and others about the conduct of a case by another lawyer. Such inquiries can rarely be answered unless there is some sound reason to suspect that fraud or other serious misconduct exists. In such case the legal aid attorney may advise application to the Grievance Committee of the appropriate Bar Association, and even may assist in preparing and presenting the complaint before that body. But for the most part he must and should be extremely cautious in criticizing or even in commenting upon the conduct of an attorney in charge of a case. There are many things which he cannot know, and at best his information comes from those ignorant of its legal effect.

Here again is cause of misunderstanding with the social worker. The latter has the case of a poor family in charge; the breadwinner has been disabled by a serious accident. There is a suit against the employer in the hands of Mr. X. The social worker does not know Mr. X; all he knows is that the fortunes of the family are bound up in the result of the suit. It drags on its weary way through the courts. "Should it not be reaching trial? Why the delay? Should it ever have gone to court, or should it have been presented to the Workmen's Compensation Commission? A settlement is suggested; is it enough? Is

Mr. X's advice good? Is he 'straight?' These are only some of the questions which the social worker wants answered. On some of them the legal aid worker may be able to give some light, as to the time a case should be reached for trial, the court it will come before, etc., but for the most part he must refrain from attempting to answer. The injured man has a lawyer, and legal aid's special purpose is to furnish a lawyer where there are no funds to provide one; not to criticize the other members of the bar in the conduct of their cases. That an evil exists in the standards of many members of the profession is undoubtedly true and the legal aid worker, with his wide experience with the handling of the cases of poor persons, has some duty to perform in making his experience available in any move to improve the general condition. But in dealing with a particular case he must be circumspect.

3. Again the inviolability of privileged communication is considered by the legal worker as one of the chief obligations of his profession. His clients are entitled to speak to him as freely and as confidentially, as the clients of the highest paid lawyer in the country to their attorneys. This attitude appeals not at all to the social service worker. The latter cannot understand why information gleaned by the legal aid attorney which might be useful in determining some family problem should not be revealed.

These represent only a few, though perhaps the most prominent, of the limitations of the legal aid worker in the much broader field of the social worker. On the other hand, the legal aid worker feels that his strict observance of his position as a member of the profession tends to bring him many cases which are unknown to social work; and that many people who

would hesitate to ask for charity, and who do not wish to submit their family or personal problems for solution, have just legal claims which they are entitled to have satisfied. They come to the legal aid society for that purpose and that only, and would resent the kind of inquiry which would be necessary to solve the "social implications." The legal aid worker feels that if his inquiry develops the type of case of the applicant, its apparent justice, and the financial inability of the applicant to retain private counsel, he has in general gone as far as he should.

THE FIELD

Have we then left little or nothing of the "field," that territory in which both the legal aid worker and the social worker find their part to play in usefulness to the community? Far from it. As the legal aid worker looks at it he must realize that, despite the limitations of his special task, he is engaged in a work closely allied to social work and having many elements of that work. Many clients come to him who of their own accord give him an insight into their social needs. He on his part should be astute to develop such facts where any opening is given. It is then that he needs contact with and the coöperation of the social worker. Even the private attorney cannot be blind to situations in which his client needs other advice and assistance than his own. Even more is this true of the legal aid attorney. The social worker on his part is anxious for the aid of the lawyer, and if he understands better the limitations and character of his work he will make better use of it.

The older legal aid societies for the most part grew up as voluntary associations organized without relation to social organizations and independently supported. They are learning the

value of closer coöperation and understanding with social agencies. In New York City this is particularly true, and the closer contact now being brought about through the Welfare Council is a promise of definite results. Many of the younger societies have been the direct outgrowth of welfare agencies or are a part of them. They have learned the lesson of coöperative effort over a wide field. Some of us in the older organizations feel that there is danger in this form of organization that the primary legal aspect of legal aid may be lost sight of in too vague and diffused aims. We are inclined to cling to our liking for the independent law office, and to believe that it has a stronger

appeal to those needing legal advice and aid, who do not wish to be thought in need of "social advice" and hesitate to seek legal aid at a social agency. Perhaps we are wrong and perhaps our feelings are dictated by too little information and by tradition and prejudice. Be that as it may, we at least admit that in the past we have erred in the other direction and have not laid sufficient stress on the necessity for joint coöperation and helpfulness. That the whole group of legal aid directors and workers is moving towards a better understanding of the mutual benefits to be derived from close coöperation with social workers is an undoubted and significant fact.

The Historical Steps by Which Law and Social Work Are Coming Together

By ROBERT W. KELSO

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THE gist of the law is justice; and its purpose is the common good. The content of social work is the correction and prevention of injurious social relations; and its aim, in common with that of the law, is the public well-being. It is strange at first sight, therefore, that they should be looked upon as separate fields, only now converging toward a common method with a common goal. The explanation is to be found in their historical development.

EVOLUTION OF AMERICAN LAW

Religion, custom and law provided the controls for primitive society. In the beginning these three were hardly distinguishable. In such division as was possible, law was seen to be the weakest of the three. But by a process, growing through many centuries, this relationship was reversed. Political organization came into the ascendant. Today, all over the world, the supremacy of law in social control is no longer doubted.

The first object of law was the keeping of the peace. Its second stage revealed it as a device to maintain the social *status quo*. In English law the Reformation ushered in a third stage, namely that of a mechanism for securing a maximum of individual self-assertion. In contemplating the background necessary to an understanding of our American law of today, it is important to note the several stages or eras in the complexion and growth of law.

First, in our more immediate background came the classical period of the

strict law at the end of the sixteenth and the beginning of the seventeenth centuries, during which Coke and his contemporaries identified and summed up the results of the English law-making of three centuries. It was a period in which lawyers and jurists were engaged in building a system of law out of the past. Its keynote was certainty. Its rules were positive and uncompromising. Its abiding characteristic was individualism. Its period was the age of the Puritan in England.

A second era arose with the rise of the English court of chancery and the development of Equity. Dean Pound¹ calls it the stage of Equity or Natural Law. Its central purpose was the identification of law with morals. It believed in the attainment of good faith and moral conduct through reason. It believed in the existence of immutable principles of justice which might be discovered through unremitting diligence in legal reasoning.

This era paved the way for a third stage in which the rules and principles of the system became greatly elaborated and law took on the outward seeming of a mature system. Viewing the individual as the great upstanding fact in all its philosophy, this period of the mature law failed to perceive that law is basically concerned with social relations and that the individual is to be viewed through those relations and not as a thing apart.

¹ Pound, Roscoe. *The Spirit of the Common Law*. Marshall Jones Company, 1921. P. 140. Dean Pound's admirable analysis of our legal history is closely followed in this article.

This era of the developed law set up property and contract as its central institutions and strove for equality between men and a maximum of security to the individual in his possessions. It corresponds to the so-called classical period in the growth of American law—a time extending roughly from the Revolution to the close of the Civil War, during which our courts were selecting and adapting the principles of the English legal system to the needs of a frontier agricultural society in a newly discovered land. Out of this nineteenth-century period of the mature law in England our American system has grown.

The end of the reconstruction period following the Civil War marks the beginning of a series of upheavals in our legal system all showing the same trend, namely the definite abandonment of the puritanical individualism so laboriously built up in our classical period; the turning away from contract and property as the great central concepts of our law; and the assumption of social relations as its new basis.

In this present metamorphosis of our law, individualism as a basic concept will die hard, considering the nature of its intrenchment. The Puritan, who settled this country and who is responsible for leadership in the upbuilding of our legal system, was a thorough hater of governmental oppression. He would be bound only by those agreements which he willingly made. In all else he would be free.

As our Continental area became settled by gradual extension of the population westward into the wilderness, this intense individualism of the earliest comers became intensified, if anything. It was natural, therefore, that there should have grown up in America an elaborate system of strict law aimed at the preservation of the rights of the individual at all hazards in

opposition to governmental controls and against the claims of Society in general.

The best illustration of this anti-social attitude of our law is to be found, perhaps, in our criminal procedure. We readily declare by statute that he who kills another with malice aforethought, deliberately premeditated, shall be guilty of murder and shall suffer the penalty of death. Whereupon we fold about the accused a cloak of numerous protections, such as benefit of all doubts; protection from double jeopardy; immunity from testifying, and the like; all aimed at rendering our solemn statutory declaration inapplicable and of no avail. In our American criminal trial the government is invariably looked upon as the oppressor. The inconsistency arises out of our irrepressible tendency to see ourselves as individuals untrammelled by all oppressions whatsoever, and our consequent inability to perceive the necessities of social control.

CHANGES IN SOCIAL CONDITIONS IN THE UNITED STATES

If we turn now to those social changes in American life which have marked our phenomenal transformation from wilderness to old-world congestion we shall see more clearly why these changes observable in our law have come about. The first white settlers in America carried with them the feudal traditions of English social life. Most of them were protestants against existing ecclesiastical control, who chose the wilderness to escape oppression. They were puritans, who believed in self-determination. They were individualists who hated king and aristocracy. Their idea of the relationship between the state and the individual was that of the oppressor and the oppressed. Consequently, when they found themselves in a wild, un-

governed and dangerous land, they sought to govern themselves independently of autocratic rule. To them the government was an oppression rather than a service. They took that government to be ideal which governed least.

They settled in small villages, often stockaded against the Indians, and were in every sense of the word self-sufficing pioneers. This condition obtained down to the time of the Revolution. After the Revolution the supremacy of the pioneer village continued due to the fact that the vast reaches of fertile land in the interior drew constantly upon the older settlements of the thirteen states.

After the War of 1812 and the coming of the railroads, the western area was rapidly taken up, each year seeing innumerable new villages springing up, inhabited largely by restless spirits from all over the world. Agriculture was the predominant occupation. Even now, in 1929, we shall find many towns of the western plain celebrating "old-settlers-day" in which large groups of white-haired pioneers will celebrate their first settlement of the district. It is a development still within the space of a single life; but the pioneer period itself may be said to have drawn to a close with the end of the nineteenth century.

That century was a time of phenomenal population growth. By the end of the Revolution there were nearly 3,000,000 whites in the country. In the decades following, especially from 1820 to 1860, the population of the United States was doubling itself every twenty-five years; yet it remained a pioneer agricultural community due to the vast reaches of fertile territory open and available for settlement. By 1880, however, most of the free land was gone, and the rate of population increase had become perceptibly slower.

In the decade from 1870 to 1880 it had been 26 per cent. In the decade closing with 1920 it stood at 14.9 per cent.

When the new century came in we had passed the comfort level of subsistence. By 1910 we had ceased to be a food exporting nation. Manufactures, which had increased at a tremendous pace from the close of the reconstruction period following the Civil War, were making themselves apparent in the rapid upgrowth of cities. And these cities contained, not our homogeneous native population, but rather a motley swarm of unassimilated quotas from half the nations of the old world. They came to us in hordes, totaling the greatest migration of human beings in recorded history.

By 1910 the steady rise in the costs of living had become so oppressive that much agitation resulted in numerous efforts to analyze the problem and to find means of checking it. Many legislatures authorized commissions to investigate its causes and to suggest remedies.

Coincident with this rise was a centralizing movement in business. Large manufacturing and transportation corporations sought by pools and other expedients to combine. The public fought bitterly against this monopolistic tendency; but failed to see that it was a concomitant of population growth and the maturing of our industrial system, and could not be stemmed by arbitrary rule. Industry increased its speed with every important discovery and invention. The result, painfully visible in the present decade, is the rapid growth of urban populations.

Today, nearly a third of all our inhabitants live in cities of more than 100,000 inhabitants. The cabin in the timber clearing, and the cottage in the quiet village of a farming countryside are darkened by the shadow of far-

reaching tenement areas where people live crowded into an average of 4.7 rooms to each family, without the usual privacies of home, drinking from the same water supply, receiving the morning's milk from a single blended source; getting to and from work in crowded cars; playing in the same gutters and compelled perforce to think of themselves as a group rather than as isolated individuals, in order to defend themselves against the dangers of disease, of unfair encroachments, of perilous conditions in the work shop. Yet all this has happened within the vision of many a judge who has himself helped to formulate and adopt the provisions of our strict law to a pioneer agricultural nation, and who now sees the subjects living under that law so completely altered in their social relationships as to present an entirely new set of social problems for his inflexible law to cope with.

THE EVOLUTION OF SOCIAL WORK IN THE UNITED STATES

In the history of social work in the United States there are three more or less clearly defined stages. The first of these is that of the relief of wants, chiefly through governmental agencies—a tenet borrowed from Elizabethan England—declaring that no citizen shall be allowed to suffer for want of the necessities of life. It may be called the era of feudal charity, and is best illustrated by the old English poor law of 1601 and the American practice of public poor relief as we see it in Pennsylvania, down to 1925. The method was not ill suited to our pioneer communities. This stage continued with little alteration until the end of the reconstruction period following the Civil War.

The second stage was ushered in by what has been styled the Golden Eighties. It is the period of American

philanthropy, and is coincident with the rapid growth of town life and a budding sense of group solidarity in social relations. The Eighties were a time of unprecedented prosperity in agriculture, commerce and industry. In the field of philanthropy charitable enterprises, often on a civic basis, emancipated completely from denominational auspices, sprang up. Many charitable trusts came into being, and it became popular to serve the community by helping those in distress, by fostering the helpless child, and by aiding the sick, the aged and the unfortunate. In this era of growth social work still used the tools of feudalistic charity, but it suffered many growing pains in the process. Workers became discontented with mere remedies. They began to discuss causes and hoped for a time when human wretchedness might be prevented.

Then came our transformation to an urban economy and with it the appearance of a profession of social work. We began to see the trained worker with a "technique" of case work service; the director, planning programs of attack upon poverty and disease, and finally the social engineer. Due in part to inadequacies in the law with its resulting inequities, and in part to the rapid change in social conditions which created wreckage and hardship at every turn, this growth of philanthropy into the age of social work has been rapid.

EARMARKS OF CLOSER CORRELATION BETWEEN LAW AND SOCIAL WORK

Because the law in its American development has tended to become a body of strict rules based upon contract and the sacredness of property, we may expect, and we shall find, that its realignment with the social requirements which it exists primarily to fulfil, seldom arises from within the legal system it-

self, but is forced upon it from without. It is the social worker who is the chief catalytic in resolving the present elements of social problems and legal remedies into a coming system of socialized law. Let us examine a few examples of this growing correlation.

A well-recognized instance is found in the revolt of social workers against the inflexible treatment of dependent, neglected and delinquent children by our legal system. The answer has been the establishment of a new judicial element, the Juvenile Court. In theory this is a tribunal of justice with extensive powers of administrative control over children coming within its authority. In practice it has become a public child-care agency with judicial powers. However we look at it, we find it a genuine point of contact between our judicial process and the practice of social work.

A second instance of correlation appears in that remarkable series of administrative boards with semi-judicial powers, that have sprung up in our governmental procedure since the beginning of the present century. The old puritanical conception of the industrial laborer as a free-willing contractor of his labor, with all the consequences as to wages, assumption of risk in the employment, liabilities of fellow-servants and the like, is rapidly going by as the speed of industry increases. The result is legislation setting aside the various disabilities of the employee and providing not only the regulation of wage payments and wage rates, but damages in advance of trial and a helpful application of indemnities to immediate needs. This is accomplished through administrative boards with power in the first instance to determine the issue of legal liability.

A third demonstration of social work pressure upon the law is a direct result of our growing community conscious-

ness in congested city life. This is the rapid extension of the police power through zoning and city planning. The sacredness of contract and of property formerly accorded the citizen a right to purchase the last vacant lot in a congested area and set up any industry or trade thereon, not forbidden by the common law as a public nuisance. Today our courts hold that cities and towns may zone their areas with strict regulations as to the nature of buildings and use, and are tending to hold that wherever the public interest and the interest of the individual conflict the public must prevail.² To make this new attitude of our socialized law effective we have set up still another administrative body with judicial powers, —the zoning appeal board.

A fourth sign of these times is the tendency toward individualization in the treatment of offenders. The psychiatric examination of law-breakers and the insistence upon treatment of the individual for his condition as well as his conduct are innovations into the strict law of a highly socializing nature.

Finally there need to be noticed two processes in legal-social work now rapidly expanding, which illustrate not so much an accomplished change in our legal principles, as a process big with the potentialities of such change. The first of these is the legal aid movement, in which lawyers, intent upon securing justice for the poor, are bringing daily before our courts the social injustices resulting from the inflexibilities and the strictures of our outgrown system of law.

The second of these socializing instruments is the growing tendency to socialize the training of lawyers. Training for the law is now effected through intensive instruction in the history and the accepted principles of our legal

² See *Hadacheck v. Los Angeles*, 156 Cal. 416, App'd 239 U. S. 394.

system. The law student who is curious about the social conditions under which his rules of tort, of the impossibility of performance in contract, of claims on bills of lading, and the like, are to be applied, must hark back to some course in "sociology" in his college background, or must go out into the community and investigate. He will find little light in the law school. Training for social work is so precarious as hardly to merit the name as yet, but there is now developing in our foremost universities an instrument likely to afford effective training for

social work. This is the institute of social research; of which the University of North Carolina affords perhaps the best example. When the teaching of the law shall be so closely integrated with the institute for social research as to constitute an inseparable process of studying the rules of social control always in the light of those social relations calling for control, we shall have effected the true socialization of our law, for then we shall have set up a process of keeping the growth of the law always in correlation with social needs.

Psychiatry as an Aid to the Administration of Criminal Justice

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TO many persons interested in the criminal law it may seem ultra-modern, not to say revolutionary, to suggest that some knowledge of the offender's mental processes is, or should be, of interest and value to the court as an aid to the intelligent disposition of his case. So strong, however, is still the tradition of "penal equivalents," of fixed penalties based upon the supposed gravity of the offense, with arbitrary distinctions between "misdemeanors" and "felonies," that the bearing of the psychology of the criminal on the degree of his social undesirability is ordinarily overlooked. Over a century ago, Gall remarked:

The measure of culpability and the measure of punishment cannot be determined by a study of the illegal act, but only by a study of the individual committing it.

The thought, then, is not new; it is merely the application of it in practice that appears novel.

The earliest form in which we find attention to the mental factor is in the concept of insanity, either as abolishing criminal intent ("responsibility"), or as rendering the defendant unfit to plead or advise with counsel ("trialability"). By reason of the fact that mental alienation, if proved, served as a complete defense to the charge, it was natural that the aspect of responsibility should become the focus of interest.

EXPERT TESTIMONY—ORIGIN AND DEVELOPMENT

From the first, the matter of alleged insanity was called to the attention of

the court by someone coming into official contact with the prisoner, such as the jailer or defense counsel, or in some instances was noted by the court on its own motion. In any event, the "recognition" was a non-medical one, with the result that in only two general groups of cases was the question of sanity likely to be raised—first, the obvious, and second, those in which a plea of insanity appeared to be sound legal strategy, regardless of the facts. That this has resulted in the overlooking of a considerable number of "mild" but none the less legally insane cases is certain.

The need by the court of advisers upon subjects of which the court would ordinarily be ignorant was recognized, and persons who could qualify by reason of their special knowledge were called as *amici curiae*. It seems likely that in the early days of the English common law and even into the eighteenth century the expert held a valued place as a reliable source of counsel to the court. (1) With the later developments of trial by jury, increasingly rigid rules of evidence, and (notably) the "sporting" doctrine and practice of the criminal law, however, the expert has tended to deteriorate into a partisan. Add to partisan bias the probability of honest difference of opinion, the propounding of hypothetical questions (usually failing to state the whole case) to which the witness must reply by "yes" or "no" without an opportunity to modify or explain his answer, and it is easy to see why juries and judges not infrequently feel only per-

plexity or irritation as a result, and why, for example, the United States Supreme Court said as long ago as 1858:

Experience has shown that opposite opinions of persons professing to be experts may be obtained to any amount. (2)

That expert testimony has fallen into a fairly general disrepute is unfortunately true.

ATTEMPTS TO CORRECT THE SITUATION

Courts and legislatures have not been blind to the fact that expert testimony has been perverted from its pristine purpose, and attempts have been made by rules of practice, by decision and by statute to assure to the court some reliable means of securing the desired information concerning the defendant's mentality. That it is not only the right but the duty of the court to ascertain the truth presumably should be axiomatic, and the United States Supreme Court has stated that "courts have the inherent power to provide themselves with the appropriate instruments required for the performance of their duties." (3) That it is likewise the duty of the prosecuting officer, as the representative of the people, to present all the pertinent facts relating to the defendant's mentality as well as to his acts is a theory which does not always work out in practice. The courts have not always chosen to rely on the facts as presented to them, and have in many cases, both with and without statutory provision, called in disinterested experts to make examination and report. The weight of the decisions and the opinion of such authorities as Wigmore and Chamberlayne clearly favor this procedure, which appears not only unobjectionable but positively helpful. One court, indeed, has declared that the neutral status of such an expert is a fair subject for argument to the jury as affect-

ing his credibility. (4) It is, therefore, unfortunate that Michigan should have seen fit to adopt an opposite attitude by the Dickerson decision, (5) and that Illinois should have followed its example recently in declaring that such appointment would serve as a certificate of credibility and might thereby unduly affect the weight of the defendant's witnesses. (6)

In some jurisdictions the practice has been to appoint commissions to make a formal investigation of the defendant's mental condition. This method has savored of the old *inquisitio de lunatico inquirendo*, and has been open to objection by reason of its very formality, with resulting difficulty in ascertaining the facts as satisfactorily as would be the case in a less legal atmosphere. The expense attached to such commissions has sometimes appeared exorbitant, and the qualifications as "experts" of some of the appointees have been dubious; judges have been known to show favoritism at the expense of science. As a recent attempt to secure impartial information for the court should be mentioned the 1927 Colorado law (7) making mandatory the defendant's commitment to a state hospital for observation whenever the plea of insanity is introduced.

Many other proposals have been offered, such as limiting the number of experts and the amount of their fees, or requiring the experts for both sides to examine the defendant together and submit a joint report; some states, like California, have complicated the introduction of a plea of insanity; (8) in some quarters, even the entire abolition of the defense of insanity has been advocated. None of these methods, however, even assuming them to be legally sound, can be said to offer a satisfactory solution.

Whether individual experts or commissions have been employed, the issue

has usually gone to a jury of laymen who were expected to pass upon questions of medical fact. That this situation is not wholly desirable is clear, and at least one state, Washington, about twenty years ago endeavored to correct it by leaving to the jury only the determination of the commission of the act, and conferring upon the court the right to determine the defendant's mental condition at the time of committing the act. Unfortunately this progressive law was declared unconstitutional in the Strasburg case in 1910, the right to a jury trial on the substantive fact of sanity being affirmed. (9)

MASSACHUSETTS PROVISION FOR ROUTINE EXAMINATION

An obvious defect of the methods outlined above is that the selection of cases to be examined is fortuitous, being made by non-medical and frequently biased persons, and is often likewise subject to judicial discretion. The most promising remedy for this defect, as well as for the equally serious one of partisanship, was proposed by a Boston psychiatrist, Dr. L. Vernon Briggs, and enacted into law in Massachusetts in 1921. (10) By this procedure, all persons indicted for a capital offense and all persons bound over or indicted for a felony who have been previously convicted of a felony or indicted for any other offense more than once, are reported to the State Department of Mental Diseases for mental examination before trial. Here no question of suspected mental disease is raised; the defendant is examined, not because he is thought to be abnormal, but because he falls in a certain legal category by the nature or the repetition of his alleged offense. It is thus possible for the public prosecutor to know in advance whether he should put the defendant on trial or ask forthwith for his commitment to a mental hospital.

In this manner the expense of many needless trials has been saved; society has been protected, and justice has been done to the defendant who is mentally ill. The examination is not only automatic but impartial, being made under the auspices of an independent agency of the State by specialists whose ability is passed upon by the Department. The fee paid is purely nominal. The court is relieved of the duty (which some courts have found onerous) of finding an expert who is both qualified and disinterested, and the examiner's impartial status is recognized by defense counsel, prosecutor, jury and court. Although either side is at liberty to call other experts to corroborate or controvert the findings of the Department's examiners, the report is practically always accepted at face value. It is not admissible as evidence, but in the rare cases where evidence on the matter is required, the examiners may be called to state on the stand their findings and opinions. The spectacle of opposing experts arrayed against each other in criminal trials has virtually disappeared in Massachusetts as a result of this law. By such a routine and impartial expert "sifting process" within the classes affected substantial justice is accomplished in an orderly and dignified manner, with safety to society, fairness to the defendant, and respect for science.

THE "PSYCHIATRIC APPROACH"

We have seen that for centuries attention has been paid to legal "insanity," and that the courts have in the past endeavored to obtain reliable advice, particularly on the question of responsibility. Within the present century, and especially within the past decade, there has been a marked extension of this attention, coincident with the spread of extramural psychiatry into other fields. It is this very

"psychiatric approach" which was advocated by Gall and later by Lombroso and the Positive School, namely, an attempt to understand the reasons for the criminal conduct, and to adapt or individualize treatment on the basis of the offender's needs and possibilities. There has been an increasing recognition of the fact that the offender's psychology must be considered if a socially desirable disposition of his case is to be made. The need for specialized knowledge has been emphasized by the development of juvenile courts, reformatories, probation and the indeterminate sentence, and by the widening of judicial discretion in the matter of sentencing. Highly significant has been the establishment of institutions for defective delinquents by Massachusetts and New York; a group has here been set apart and declared, although still legally "responsible," to be in need of segregation and special attention on account of the mental abnormality (defect) of its members. The recognition that this group is not amenable to the routine treatment accorded to the so-called "normal" offender is a decided step toward a more enlightened penology.

Many judges are realizing that the criminal act alone gives relatively little information about the one who commits it, and that a disposition based only upon such factors as the type of offense or number of previous convictions must in many instances prove futile. As a result their interest in psychiatric advice as an aid to disposition has grown apace.

EXTENT OF PRESENT PSYCHIATRIC FACILITIES

A survey of the criminal courts of the country was recently undertaken by the National Crime Commission for the purpose of ascertaining the extent to which the courts are employing

psychiatric advisers, either under their own control or under that of other public agencies. (11) Of the 1,168 courts replying to the questionnaire, 110, or 9.4 per cent, reported themselves as regularly employing a full-time or part-time court psychiatrist or the facilities of some public or semi-public agency. These courts were distributed throughout thirty-one states and the District of Columbia; certain states were conspicuous by the number of such courts, notably New York (fifteen), Ohio (eleven), Pennsylvania (ten), Michigan (nine), Massachusetts (seven) and California (six). Of considerable interest is the fact that of 61 court psychiatrists (for whom dates were given), 38 had commenced their work since January, 1921. This is impressive testimony to the recency and rapidity of developments of the use of such facilities. Of further interest is the fact that of 584 comments made by judges on the value of ascertaining the mental, nervous, and physical condition of persons accused or convicted of crime as an aid to the court in the disposition of cases, 473, or 81 per cent, were unequivocally favorable. A number of the judges were frank to say that in their opinion the routine, mechanical method of dealing with delinquents is unscientific, and that knowledge on the part of the judge concerning the defendant's mental and physical condition is not only more humane to the defendant but serves better the desired ends of justice and the protection of society.

A supplementary questionnaire sent to courts equipped with psychiatric facilities shows that in most cases the mental examination is employed with special reference to disposition, rather than to "responsibility" or "triability" alone. Only two courts report that mental examination is a routine procedure in all cases; most courts ar-

range for such examinations in less than 10 per cent of their cases, the cases being selected by the court or by the probation officer. Nevertheless, the facts show an increasing interest in the possibilities of the psychiatric approach to the problem of individualization of penal-correctional treatment.

PSYCHIATRY IN CORRECTIONAL AND PENAL INSTITUTIONS

In passing, mention may be made of the development of psychiatric clinics in penal and correctional institutions, especially as in certain quarters these have been urged as a substitute for court clinics. It cannot be stated too strongly that institution clinics, useful though they undoubtedly are for purposes of classification, discipline, occupation and parole, can never replace to any great degree facilities whereby the court may be guided in its disposition. Prison clinics miss entirely those who are placed on probation; furthermore, for the 90 per cent of all convicted offenders who are sent for very short periods to county jails, (12) only one state (Massachusetts) is making a systematic attempt to provide mental examination. (13) These clinics, therefore, are likely to affect at the most only about 10 per cent of all persons committed. Of these persons some will have passed between the wheels of justice who should never have been submitted to trial, but who should have been sent at once to a mental hospital. Such cases report not only a needless expense to society, but a distinct injustice to the individual. The sifting process, if one relies on the institution clinic, is too hit-or-miss, too wasteful of time and money and too likely to result in unfairness to the mentally abnormal.

Even more serious than the expense of unnecessary trials and the sentencing of insane persons is the likelihood that

the traditional method of disposing of offenders will result in an inadequate degree of protection to society. What shall we say of the persistent alcoholic who is sentenced to jail for thirty days or less, only to become intoxicated on the day of his release? Alcoholism is primarily a medical, not a penal problem, and although drunkenness is rated as a trivial offense its social and domestic implications are widespread and serious. What of the psychopathic offender who is placed on probation, or fined? There is every assurance that such treatment will not change his conduct, and that he will continue to be a menace to society. What of the mental defective with vicious tendencies who is confined in a house of correction or reformatory for a short and often a definite term? His only profit from such confinement will likely consist in learning new ways of offending. Most of these individuals should be segregated for a long period or even permanently, preferably in special institutions, (14) yet now even though recognized after their commitment they must be released, without supervision, at the end of the period which the court has ventured to prescribe as adequate. It would be refreshing if the courts would occasionally ask themselves just what they think to accomplish by their sentences; in too many cases the vengeance motive apparently obscures what should be the aim of the criminal law—to protect society by reforming the reformable offender and segregating those who are unfit by reason of their criminal traits to retain a place in society. In spite of the distrust sometimes expressed to the effect that psychiatrists would effect a general jail-delivery if allowed their own way, it is by far more probable that many offenders would be permanently segregated under a psychiatric régime who now receive

but short periods of imprisonment, brief interruptions of a criminal career.

SUGGESTIONS FOR THE FUTURE

Several of the larger courts, of which the Recorder's Court of Detroit is a conspicuous example, have shown how a court clinic may serve as a general adviser on matters relating to the mental makeup of the offender. These clinics are operated by competent psychiatrists who are court attachés, usually and preferably directly responsible to the bench. By reason of their organization they are neutral and are free to make recommendations as to disposition. The courts in the larger cities are usually allowed sufficient funds and conduct enough business to warrant the employment of an able psychiatrist at an adequate salary, and to provide him with trained assistants such as psychologists and social workers. Needless to say, the appointment should be made on the basis of merit, and the tenure of office should be secure. Court clinics of this sort have demonstrated their value, and their establishment should be encouraged.

The smaller courts are not so well able to establish clinics of their own. In some communities no competent local psychiatrist can be found, and in many the expense would be disproportionate to the amount of business transacted. For present purposes, one solution seems to lie in making available to these courts the psychiatric resources of the State. This method is most practicable in those states which are well provided with state hospitals. There is every reason why any court should be at liberty to call upon the staff of these hospitals for advice, and to feel confidence in such advice. This practice prevails in some states, notably Massachusetts and New York. In other states the central authority

(Department of Public Welfare or Department of Mental Diseases) has organized traveling clinics which in addition to their other duties may take on the function of making mental examinations for the courts. In some states again, we find mental clinics operated by the county, by private subscription or by universities. It is preferable, wherever possible of course, to utilize the services of agencies of this sort as being neutral and unaffected by the prospect of a fee; with the present rapid extension of psychiatry into the community such clinics will become increasingly numerous, with resulting advantages to the courts as one of their beneficiaries. Even so, some of the courts in the more remote centres will be unable to avail themselves of such services; they must probably continue for a time at least to rely upon local physicians, called in as occasion seems to demand. With the development of facilities the use of routine mental examinations may be expected to increase; it is only by a routine procedure of this sort that the fullest benefit may be derived from the standpoint both of society and of the offender.

More remote than the extension of court or other clinics is the possibility of more fundamental changes in the method of dealing with the delinquent. The Ninth International Prison Congress, (15) held in London in 1925, gave much attention to the question of the individualization of punishment. Among other recommendations the Congress urged: that judges be trained in criminology as well as law; that before imposing any penalty the judge should have a full knowledge of the physical and psychic conditions and the social life of the accused and the motive of the crime; that the law should give the judge a choice of measures for prevention and security and should not limit his power; and that the tria

should be divided into two parts—guilt-finding and penalty-fixing, the public and the injured party being excluded from the latter. The establishment of special institutions and the facilities for classification by age, sex, mental status, reformability and length of sentence was likewise proposed. Some of these proposals are not at all impossible of fulfillment under existing forms of law. It is, however, probably too much to expect that special training will be soon required for judgeships, especially since many of our judges are elected and regard duty in the criminal court as an undesirable assignment, to be exchanged as soon as possible for a civil one.

The more sweeping and even more promising proposal has been made by Sheldon Glueck (16) and recently given wide publicity from its advocacy by former Governor Smith of New York, (17) that the courts confine themselves to the determination of guilt, and that the disposition of the offender be placed in the hands of a commission of psychiatrists and sociologists who would base their disposition upon a study of the offender himself and the pertinent facts in the history. The objection which has been made that the judge who hears the evidence and sees the witnesses is better equipped to pass sentence confuses the functions of guilt-finding and penalty-fixing and overlooks the fact that under the present rules of procedure some of the most significant data concerning the criminal himself would be excluded in the trial as being irrelevant to the fact of guilt or innocence, and that, moreover, what the witnesses testify to is the offense itself, not the nature of the offender. The further objection that examination of the criminal record of the offender would not put the commission in a position to dispense justice likewise misses entirely the purpose of the board

and of all scientific attempts to individualize punishment, namely an effort to understand the criminal and to prescribe treatment according to the results of the inquiry. In any study of the prisoner, his record of offenses would be but one of many factors considered; far more important would be a psychiatric examination of the individual.

As a corollary to the creation of such a commission would be the establishment of specialized institutions for proper classification and a truly indeterminate sentence, with the commission exercising control over the release of the prisoner as well as over the selection of the place for his detention and treatment. Such a commission would be an independent scientific agency, and its functioning should provide for a sound individualization of treatment with resultant greater protection to society.

If it be urged that this method would be expensive, one may well call attention to the wastefulness of the prevailing mass-treatment method, with its random sentencing or placing on probation, and the high rate of recidivism. As many as five arrests of one person are common and numbers as high as one hundred are far from unknown. Each arrest presumably means that an offense (in fact, more likely several offenses) has been committed, sometimes involving injury to the person or property of some member of the community. Aside from the peace of mind of society, is it not better economy to dispose intelligently of a case when it first comes up than to continue on the penal merry-go-round, with the ever-mounting costs of arrests and trials?

Psychiatry offers no panacea, claims no omniscience. In the realm of knowledge of the mental processes there is still much to learn, much call for research. Nevertheless, psychiatry has

already demonstrated beyond doubt that it has a contribution to offer to an intelligent administration of criminal justice—knowledge of the individual, without consideration of which the full accomplishment of justice and of social defense cannot be attained.

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- (2) *Winans v. New York & Erie R. R. Co.*, 21 Howard 88 (at 101).
- (3) *In re Peterson*, 253 U. S. 300 (at 312).
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- (5) *People v. Dickerson*, 129 N. W. Rep. 199.
- (6) *People v. Scott*, 326 Ill. 327.
- (7) Chapter 90, Acts of 1927 (Colorado).
- (8) Chapter 677, Acts of 1927 (California).
- (9) *State v. Strasburg*, 60 Wash. 106.
- (10) Chapter 415, Acts of 1921. Amended by Chapter 105, Acts of 1929 (Mass.) For a detailed description of this law, see Sheldon Glueck, *Mental Disorder and the Criminal Law*, Boston, 1925, pp. 58-72, and Winfred Overholser, *Practical Operation of the Massachusetts Law Requiring the Psychiatric Examination of Certain Persons Accused of Crime*, Mass. Law Quarterly, Vol. XIII, No. 6, pp. 35-49.
- (11) Winfred Overholser, *Psychiatric Service in Penal and Reformatory Institutions and Criminal Courts in the United States*, "Mental Hygiene, Vol. XII, No. 4, pp. 801-838 (October, 1928).
- (12) See *Prisoners: 1933*, U. S. Census, p. 24, table 9.
- (13) Chapter 309, Acts of 1924 (Mass.)
- (14) See Bernard Glueck, *Concerning Prisoners*, Mental Hygiene, Vol. II, p. 177 (1918).
- (15) Bernard Glueck, *Report on the Ninth International Prison Congress*, Mental Hygiene, Vol. X, No. 1, pp. 113-129, January, 1926.
- (16) S. Glueck, *Mental Disorder and the Criminal Law*, pp. 485-7, and *Principles of a Rational Penal Code*, Harvard Law Review, Vol. XLI, No. 4, pp. 453-482.
- (17) *Governor's Message to the Legislature*, New York Legislative Document No. 3, pp. 53-54 (1928).

The Field of Public Welfare

By FRED R. JOHNSON

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ORGANIZED social work in the United States recently turned the half century. The National Conference of Social Work, originally known as the Conference of Charities and Correction, celebrated its semi-centennial at the meeting held in Washington in 1923. The attendance at the first conference numbered about twenty recruited from four states, whereas at the fifty-third gathering in Cleveland in 1926 there was a registration on a nation-wide basis of 4,080 delegates with representatives from Canada and overseas, and a paid membership on July 1 of the same year numbering 3,904.¹ The first Charity Organization Society was established in Buffalo in 1877. When the fiftieth anniversary of its foundation was commemorated in the fall of 1927 by means of a conference on family life of today, there were listed in the current directory of family social work societies no less than three hundred and twenty-four agencies throughout the United States which were following in the footsteps of this venture.²

The first probation officer was appointed under authorization of a statute passed by the General Court (legislature) of Massachusetts in 1878. At the time of the fiftieth centennial in Boston, all of the states except one had juvenile probation and thirty-six had extended the system into the adult field, with the sole probation officer of

fifty years ago multiplied until paid officers throughout the United States now number 3,191.³ Rapid expansion differing only in degree may be noted if we consider social settlements, agencies engaged in child welfare, and those formed to promote recreation and leisure time activities.

The juvenile court and medical and psychiatric social work are of comparatively recent origin when measured by the older social movements begun shortly after the Civil War. Their spread has, nevertheless, been even more rapid than has the growth of some of the older forms. The first Juvenile Court was established in Chicago in 1899. Accenting child study as this court did, it naturally followed that there should have been established in conjunction with it a Psychopathic Institute, the first of its kind, designed to be rapidly followed by others promoting constantly widening horizons in the study of children. It was eminently fitting that the twenty-fifth anniversary of the foundation of the first Juvenile Court should have been commemorated jointly with the fifteenth anniversary of the first Psychopathic Institute.⁴ Other children's courts which organized clinics for child study during the next decade, privately or publicly financed, included Boston, Detroit, New York, Los Angeles, Philadelphia and Westchester County. A notable group of child

¹ From an unpublished report prepared by Howard H. Knight, General Secretary of the National Conference of Social Work.

² See directory of societies engaged in family social work issued by the American Association for Organizing Family Social Work.

³ From an article by Charles L. Chute, General Secretary of the National Probation Association, in the *Probation Bulletin* for December, 1928.

⁴ Addresses at the anniversary are published in book form, "The Child, the Clinic and the Court," New York, 1925.

guidance clinics has recently been created through the encouragement of a foundation.

The aid of psychiatry was extended into the adult field when a psychiatrist was appointed on the staff of the probation department of the Municipal Court of Boston in 1913. Others followed in a number of criminal courts throughout the country. A well-equipped psychopathic clinic, financed by taxation, became a part of the Recorder's Court of Detroit in 1921.

Medical social work, the extension of the influence of the hospital and the clinic into the home, has witnessed rapid growth since first originated by Dr. Richard Cabot in 1905. It is now an adjunct of hospitals, both public and private, that lay claim to a rounded service for their patients.

CAUSES PROMOTING GROWTH

The causes which have promoted this growth of social work, public and private, have been various. Chief among them may be named the urbanization of our population, hastened by the great waves of immigration, especially during the two decades preceding the Great War; the change from an attitude of *laissez-faire* to an emphasis upon social responsibility for poverty which reached a high tide in American politics in the campaign of 1912; the development of higher standards of living side by side with economic distress; and the growth of newer forms of service financed by increasing resources devoted to human welfare. In the recent stages of this growth we note the organization of community funds which make more adequate the financing of social work, the development of foundations, both local and general, and the increasing amount assessed upon our tax rolls in behalf of the public welfare.

When Amos Warner wrote his classic *American Charities* in 1894,

public relief of the poor in their homes was in disfavor. Based both upon English and American experience, most students of social work of that day accepted the dictum that such relief was demoralizing and should be abolished. The philosophy of Thomas Chalmers still met with general approval. There followed an awakened public conscience as to the social causation of poverty, and popular agitation in favor of a specialized form of relief, pensions or allowances to mothers. Beginning with Kansas City in 1911 this new form swept the country until we now find it accepted even in centers where the traditional distrust of general public outdoor relief persists.

There is today less partisanship between advocates of voluntary activities and those sponsoring public development than there was thirty years ago. This is undoubtedly in part due to the interchange of workers between the two forms of service. Men and women with experience in private societies have been recruited for public work and public officials have occasionally been secured to direct private effort. The present tendency is not to consider the two fields mutually exclusive nor to follow the philosophy of "either," "or," but rather to grant that the burden of social work may properly be borne both through voluntary subscription and through the tax rate. The questions determining the rate of progress in the assumption of public responsibility in a given community are frequently the lack of response to private appeals for funds and the increasing resistance to a mounting tax rate.

DEVELOPMENT IN A LARGE CITY

Public development may be illustrated by the experience of Detroit. Spurred by the growth of the automobile industry, its population increased

from 465,000 in 1910 to 993,000 in 1920. The old ward system of municipal government was abolished through a new charter which provided for a mayor with a small council elected at large, with all candidates chosen on a non-partisan ticket, and in years which alternated with state and national elections. Education, health, and public welfare were placed in the hands of unpaid boards. The civil service was given wide application. In the provision setting up a department of public welfare there was created a bureau of social service with an effort made to define the standards which should govern social case work written into the charter itself.

Contemporaneous with this modernization of the city government itself and with new emphasis upon public welfare, voluntary social agencies were reorganized. Under the spur of war needs the Detroit Patriotic Fund was established in 1918. It not only financed activities which were an incident of the war, but also the social agencies which were concerned with the continuing needs of the city. After the war the Patriotic Fund became the Detroit Community Fund, mainly concerned with financing activities of the latter sort.

Public services comparable to the causes financed by the Community Fund include the following: the Juvenile Division of the Probate Court of Wayne County; the Department of Public Welfare and the Recreation Commission of the City of Detroit; the Psychopathic Clinic and the Probation Department of the Recorder's Court, a criminal court dealing with adults; the nursing services and clinics of the Board of Health; the attendance department and the psychological clinic of the Board of Education; the Woman's Division of the Police Department; the nursing service of the School Com-

mission of Wayne County; and the Wayne County Training School devoted to the care and education of a selected group of the higher grade of those ordinarily classified as feeble-minded.

The Detroit Community Fund in its campaign of 1927 raised \$3,420,000, of which \$3,002,000 was required to finance the deficits of 79 allied voluntary agencies engaged in social work. It is significant that of the public agencies cited, two of them alone, the Department of Public Welfare and the Juvenile Court, expended \$4,257,000 for social welfare assessed upon the tax roll during the last fiscal year for which figures are available, or 42 per cent in excess of the needs of 79 private agencies.⁵

STATE ORGANIZATION FOR PUBLIC WELFARE

Antedating by ten years any of the other social movements hitherto considered, there was established in Massachusetts in 1863 a Board of State Charities, concerned with education and supervision in the field of public charity. Its duties included responsibility for the care of state paupers, those without a local settlement, and removal of them when deemed necessary and proper; securing reports concerning care taken of public charges in the 334 cities and towns of the state; and supervision and inspection of state institutions which included three so-called lunatic hospitals, four almshouses, three reformatories, a state prison, institutions for the care of blind and deaf mutes, and local prisons. It was also the responsibility of this board to bring to the attention of the

⁵ The Department of Public Welfare is financed by the City of Detroit, the Juvenile Court by the County of Wayne. The figures cited cover the calendar year of 1927 for the former, and the fiscal year ending December 1, 1928, for the latter.

legislature the needs of the state with respect to matters relating to charities and corrections. During the next decade boards somewhat similar in character were established in New York, Ohio, Illinois, Pennsylvania, Wisconsin, Michigan and Kansas, with beginnings in North Carolina, Rhode Island and Connecticut.⁶

First established with supervision and advisory powers accented, administrative responsibilities were added, and in some states boards of control were created. The emphasis upon efficiency, and the desirability of vesting direct responsibility in the current administration, resulted in the creation of State Departments of Public Welfare as branches of state administration, with a state director of welfare responsible to the governor. Such a reorganization of public welfare work was brought about in Illinois through a civil administrative code in 1917. The old board in Massachusetts was reorganized on a state department basis in 1919. A reorganization which was influenced by the example of Illinois and in character somewhat similar took place in Ohio in 1921 when a State Department of Public Welfare was created with a director who is appointed by the governor, becomes a member of the state cabinet, and holds office concurrently with the governor.

THE DEPARTMENT OF PUBLIC WELFARE OF OHIO

The far-flung character of state interests in the field of social work may be illustrated by an outline of the organization in the State of Ohio.⁷

⁶ For historical material, consult *Supervision and Education in Charity*, by Jeffrey Brackett, New York, 1903; for statutes creating state boards of charities and kindred bodies, see *Public Welfare Administration in the United States*, by Sophonisba P. Breckinridge, Chicago, 1927.

⁷ See p. 10, Sixth Annual Report of the Depart-

As described in a recent annual report, there are six divisions of the Department of Public Welfare, as follows:

1. An institutional division with responsibility for state institutions.
2. A division of charities, with three bureaus devoted to child care, support from relatives of patients sent to certain state institutions, and institutional inspection.
3. The Ohio Board of Clemency concerned with the execution of laws governing pardon and parole.
4. A bureau of criminal identification and investigation.
5. The Ohio Commission for the Blind.
6. A manufacturing and sales department in charge of employment and industrial training for inmates of penal institutions.

No two states are entirely alike in their administrative organization for public welfare. In Massachusetts all questions concerned with state penal institutions and parole are administered by a Department of Correction of equal standing with the Department of Public Welfare. In Illinois the Department of Public Welfare is more adequately staffed with a director assisted by seven associates as follows: assistant director, alienist, criminologist, fiscal supervisor, superintendent of charities, superintendent of prisons and superintendent of pardons and paroles.

If we examine the functions of the two bureaus devoted to institutions and charities, we get further evidence of the importance of the interest of a state such as Ohio in the public welfare.

There were twenty-three institutions under the control of the Bureau of Institutions. Eight of these were devoted to mental disease, seven to corrections and two to the care of the

ment of Public Welfare of Ohio for the fiscal year which ended June 30, 1927.

feeble-minded. On June 30, 1927, the population of these institutions numbered 28,973, of whom 13,974 were patients in hospitals for mental diseases. The property valuation was \$39,965,000, and officers and employees numbered 3,400. The annual budget of the entire department was \$9,274,000.

The Division of Charities succeeded to the functions formerly discharged by the Ohio Board of State Charities, similar in many respects to the duties exercised by the time-honored supervisory bodies of which the Massachusetts board was the first. The bureau devoted to institutional inspection is charged with the visitation of all benevolent and correctional institutions for adults such as private homes for the aged, workhouses and jails. It licenses child-caring institutions and agencies and private families which board children. It also reviews and approves plans for buildings and has charge of the incorporation of proposed institutions and agencies for the care of children. The Bureau of Child Care has responsibility for the guardianship of dependent, neglected and delinquent children, and also provides for the care and treatment of crippled children. The bureau employs foster homes rather than institutions for these children. There are 3,700 dependent and crippled children under care and guardianship.

SOME PROBLEMS OF PUBLIC WELFARE

The rapid increase in responsibilities for social welfare borne by taxation should not be permitted to obscure the difficulties which inhere in public administration. It is essential that friends of public development should understand and assist in overcoming these handicaps.

An initial obstacle is encountered in the lack of continuity of policy. Ad-

ministrations come and go. Mayor Hunt of Cincinnati, Mayor Mitchell of New York City and former Governor Pinchot of Pennsylvania were deeply interested in the development of humanitarian services, and notable advances were made in their administrations. When their successors were inaugurated there were changes both in heads of departments and in policies to be pursued. Instances could readily be multiplied where progress was arrested as a result of such changes. Nor is it possible to indefinitely safeguard public development by means of an unpaid board serving as a buffer between changing administrations, although such organization is of help. Witness the experience of the Board of Public Welfare of Kansas City, first of its kind in the United States. There was continuity of policy for a period of years, but finally a swing of the political pendulum dislodged the forces of progress.

Added to this lack of continuity which makes it difficult to attract men and women of ability and almost impossible to retain them in the public service, there is the additional problem of inadequate compensation. Michigan furnishes an illustration in point. The salary of the Director of the State Department of Public Welfare is limited by statute to \$4,000 per year. And yet he has responsibilities and opportunities for service far greater than those which come to the agents of private societies throughout the State, many of whom receive more adequate compensation.

Added to lack of continuity and inadequate compensation there is frequently the liability of political pressure in making appointments. Nor should it be inferred that such pressure always comes from political sources as popularly understood. Men in positions of public responsibility quickly

discover that reputable business men, professional men of standing, even ministers of the gospel, will frequently urge the obviously unfitted for public position. The beneficiary of such support may be an unfortunate widow, an elderly gentlewoman or a superannuated minister, but the result is the same. Civil service is a corrective when intelligently administered.

A further serious handicap may be mentioned in the difficulty of interpreting to the general public the need of trained service for public social work. We recognize the need of the expert in the fields of education and public health. The functions of the teacher, of the doctor, and of the nurse are readily understood, and specialized training is accepted as a matter of course. But for positions of responsibility in public social work there is as yet no considerable body of public opinion which recognizes and supports the demand for expert service.

The difficulties enumerated have seriously interfered with the develop-

ment of adequate and effective standards. This is found to be true whenever areas of public social work are subjected to the analysis of social research, whether it be probation in juvenile or adult courts, child placing, allowances to mothers of dependent children, general relief to the poor in their own homes, or other forms of welfare activities.

The student of public versus private development in the field of social welfare should no longer be dogmatic as to the relative function of the two. He should recognize that public responsibility is likely to continue where once it has been accepted. On the other hand, he must appreciate that new responsibilities as reflected in taxation for the social welfare have increased in such rapid fashion during the last twenty years that the need of the hour is not for the addition of new burdens, but rather a compelling demand for the improvement of standards within the sphere where public responsibility has already been assumed.

Population and the Administration of Justice

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LAW is one method of solving human problems. As law is established with the sanction of the community, common sense would suggest keeping the rules of law close to the individual, so that he may have recourse to them to solve his problems and not be driven to extra-legal methods in cases where there is a clear legal right.

Many factors contribute to make a gap between the common man and the administration of justice. Our legal system in general is fixed and may be modified only bit by bit as the result of legislative effort. The people, however, and their problems are constantly changing. They grow past the machinery set up for them, and unless that machinery is constantly adapted to meet the new needs, the gap grows wider.

No factor is of greater significance in creating this gap than the enormous growth of population with its attendant condition of extremes of wealth and poverty. It is comparatively easy to establish and administer a body of laws for individuals in a small homogeneous community. There any man is of considerable significance. The same code of law may be utterly inapplicable to the conditions of a great city. In the city the individual often is lost sight of, is submerged by the crowd. There is no one except himself particularly anxious to work out his problems. If he is socially or economically unable to do this himself, common sense again suggests that if society is to keep the law close to the individual it must be devising new ma-

chinery for the purpose and the process to be effective must change as the community and the needs of individuals change.

The present article is a brief, and therefore in many respects inadequate, attempt to visualize the outline of the modifications of our legal system which have followed the growth of population in the United States. Four stages have been selected, not entirely chronologically, because density of population is not the same all over the country but on a basis which will show something of the changing gap between the law and the individual. The first period we may call the "lawless stage." It corresponds largely with the frontier. Period number two is "first efforts at a legal system." It corresponds to some extent with the rural community. Period three deals with "the crystallized system" of law. It was the product of a community where small towns existed. The last stage is that where the effort is to make the legal system work. The protection of the law is of the greatest importance to the individual in the present period of large cities. From the frontier period of no law to the urban legal complexities is a definite progression.

The idea is expressed by F. J. Turner when he says:¹

Behind institutions, behind constitutional forms and modifications, lie the vital forces that call these organs into life and shape them to meet changing conditions.

¹ F. J. Turner, *The Frontier in American History*, p. 2. Henry Holt Co., 1921.

Peculiarly American is our progress out of the primitive economic and political conditions of the frontier into the complexity of city life.

THE LAWLESS STAGE

In 1650 the frontier in the United States was advanced to the head of navigation of some of the larger rivers flowing into the Atlantic. A century and a quarter later, in 1776, it had crept westward only as far as the Allegheny Mountains, that is, so far as the revolting colonies were concerned. Thereafter, the far-flung line spread even more rapidly west. Fifty years later, in 1825, it was moving along the Ohio and Mississippi Rivers. Twenty-five years later, in 1850, it had reached the Pacific Coast in places. Forty years after, in 1890, there was no more frontier. Free land ceased to exist.

The significant feature of the period from our standpoint was the absence of restraining law.

Turner summarizes it as follows:

Western democracy included individual liberty, as well as equality. The frontiersman was impatient of restraints. He knew how to preserve order, even in the absence of legal authority. If there were cattle thieves, lynch law was sudden and effective: the regulators of the Carolinas (in the 1760's and 1770's) were the predecessors of the claims associations of Iowa and the vigilance committees of California. But the individual was not ready to submit to complex regulations. Population was sparse, there was no multitude of jostling interests, as in older settlements, demanding an elaborate system of personal restraints. Society became atomic. There was a reproduction of the primitive idea of the personality of the law, a crime was more an offense against the victim than a violation of the law of the land. Substantial justice, secured in the most direct way, was the ideal of the back woodsman. He had little patience with finely drawn distinctions, or scruples of method. If the

thing was one proper to be done, then the most immediate, rough and ready, effective way was the best way.²

There were three main types of people in this period (a) hunters, trappers, traders, cattlemen, miners and perhaps lumbermen; (b) settlers; (c) Indians.

The back woodsman and early cowboy appear to have been lawless, alternating long periods of solitary labor amid hostile Indians with shorter sessions among their fellows marked by drunkenness, gambling, brawling and fighting so long as money and credit lasted. We cannot observe that there was much separation between the individual and the law, for in a practical sense each man was largely a law to himself. If dissatisfied, he could always move west.

The settler was more civilized. There was in his mind some desire for restraining influences. He did not roam constantly. He was looking for a place to raise his family. He built himself a rude house, made a clearing in the woods, and began to have neighbors. His system of law was largely the judgment of the family and neighbors. Such sanction appears to have been all that was possible in the existing conditions. Roosevelt, in his *Winning of the West*, tells us that community councils regulated many matters now within the control of the courts. Thus, if a man left on a hunting or trapping expedition, or to make war on the Indians, and after a reasonable length of time did not return, his wife was free to re-marry. If, after her re-marriage, the first husband returned, the neighbors held a conference and the woman was entitled to her choice between the two men, the one not selected promptly leaving the settlement for good.

² *Ibid.*, *The Problem of the West*, p. 212.

The Indians, originally, as became an old civilization, had methods of tribal regulation. Today there are courts of Indian offenses which deal with such matters as domestic relations, personal and property rights, intoxicants, gambling and disputes in a manner which, we may be sure, is not fundamentally different from that of their ancestors, even though these courts are technically set up by the United States Government.³

While it is, perhaps, an hibernicism to speak of law in a lawless age there were courts of a sort. The following is a description of frontier legal administration as Daniel Boone saw it when in the latter part of his life he settled in the Mississippi Valley in what was then Spanish territory.⁴

The only semblance of government was that vested in a single official called the syndic, who was a sort of combined judge, jury, military commander and sheriff . . .

Boone knew nothing whatever about law, and his experience in Kentucky had not endeared it to him. In his court he had scant patience with technicalities and forms. But his sense of fairness and justice was keen, and his decisions, says Thwaites, "based solely on common sense in the rough, were respected as if coming from the Supreme bench." The same writer says, "His methods were as primitive and arbitrary as those of an oriental pasha; his penalties frequently consisted of lashes on the bare back well laid on;" He would observe no rules of evidence, saying he wished only to know the truth, and sometimes both parties to a suit were compelled to divide the costs and begone.

As the frontier stage drew to a close the advancing figures of the sheriff,

³ For an extensive discussion of these courts and their operation, see *The Problem of Indian Administration*, pp. 764 ff., published by the Institute for Government Research, 1928, Johns Hopkins Press.

⁴ Stewart Edward White, *Daniel Boone, Wilderness Scout*, p. 288.

the judge, the courts, with their technicalities bewildering to the frontiersmen, appear. Boone was ousted from his lands in Kentucky and again along the Mississippi, because of failure to conform to the recording regulations laid down by men further east in a totally different stage of legal development. Billy the Kid was finally killed by the representatives of the law. The Indians are gradually becoming subject to the white man's courts.

Courageous men such as Wild Bill Hickok, on behalf of the law-abiding part of the community, faced the issue of the lawless men and established the philosophy that the community would not permit a man to be lawless. The force back of the sheriff's posse which pursued, caught and hanged the outlaws, ceased in time to be the family group of the victim and became the hired servants of an impersonal creature, the state.

The frontier stage of strong arm justice, of ruthless individualism, of closeness between the people and the law, of simple legal machinery, came to an end, and a new stage arose.

THE FIRST EFFORTS AT A LEGAL SYSTEM

Historically this stage began with the first settlers in this country who brought with them the recollections of legal institutions in the home land. The density of population approximated that in a rural community.

As population increased, the frontier became rural. The word "rural" is used, as in the census reports, to designate those portions of the country outside of incorporated communities having more than 2,500 inhabitants. The figures,⁵ show the rapid march of

⁵ *Statistical Abstract of the United States*, 1928, p. 40.

the population away from rural life in recent years:

Year	Percentage of Population—Urban
1880.....	28.6
1890.....	35.4
1900.....	40.0
1910.....	45.8
1920.....	51.4

Beginning with the first white settlements on the Atlantic Coast, the rural stage moved westward in the wake of the frontiersmen. The farmers of New England, and the Middle Atlantic States, the tobacco planters in the South, were of this stage. A little later the grain fields were crowding the lumbermen and cattlemen west to the plains. The conditions are to some extent still in existence. Characteristic of it was the realization by some of the people that law was necessary. They experimented with ways and means to keep the legal system as far as possible from interfering with the liberty of the individual.

Beginning with English models we notice the transition to a new conception of legal machinery based rather on popular approval. The quotations are from Osgood's *The American Colonies in the Seventeenth Century*.⁶

In the earlier stages of their history the court of highest rank was that of Governor and Council. . . .

Before the first century of colonial development had passed, the councils had ceased to regularly perform judicial functions, and supreme or superior courts had been organized. . . .

While the central courts of the provinces were in this way undergoing development, local tribunals were also being organized. . . . By means of these and of the circuits and appeals through which they were connected with the central courts the judicial system of each province was perfected.

⁶H. L. Osgood, *The American Colonies in the Seventeenth Century*. The Macmillan Co., 1904. Volume II, Chapter XII, *The Judiciary*, pp. 278, 281, 283, 285, 287.

. . . in the provinces as in New England, justice was administered in the seventeenth century chiefly by laymen. . . . Owing to this reason, as well as to the fact of the greater simplicity of colonial life, many of the complexities and technicalities of English procedure were dropped. . . . They exceeded the capacity of the untrained or poorly trained minds of the colonists to understand or apply . . .

It was of course, in the local courts that the easy-going methods of popular justice most obtained.⁷

The colonists soon found the problem of simple justice complicated by social and economic classes. In a frontier life financial inequalities did not obscure the individual personality. The rural colonists, on the other hand, were of widely different degrees of wealth and social position. As a consequence, the administration of justice had to be adjusted to the classes. There were wealthy Dutch patroons, southern planters, poor whites, a well-to-do commercial and trading class, and indentured servants. It is estimated that with the possible exception of New Englanders, at least half of the immigrants to America before the Revolution were indentured servants or slaves. Of these, many were white servants, voluntarily binding themselves to service to pay for their passage. Others had been kidnapped and sold into bondage. In addition to servants, there were the convicts from the English jails.

All these people spread out in the new country forming a fringe beyond the large settlements which rapidly became towns. They developed a legal system of their own, more complex than the frontier stage, but more flexible than that in England.

The machinery of the law for this second stage is remarkable for at least one figure which does not appear in

⁷*Ibid.*, pp. 303 and 304.

frontier life—the professional lawyer. It is perhaps his appearance on the scene that marks the line between the first and second stages, if any such line can be recognized.

One writer describes this early legal system in Pennsylvania in the following terms as of the year 1682:⁸

The County court established by Penn was not unlike its Upland predecessor; in fact Penn took over the local court very much as he found it, exercising a supervisory jurisdiction through the Provincial Council. Its Justices were unlearned in the law; its rules of evidence were elastic enough to adjust themselves to the necessities of each case; its judgments and decrees were moulded by equitable considerations; in short, it was a court in which a suitor could try his own case without necessarily having a fool for a client.

Another interesting picture of the practice of the law in this stage is given in Springfield, Illinois,⁹ at that time also a rural community.

Springfield (in 1828) was only seven years old but it was growing, steadily but slowly. Three years before Stuart's arrival it had been made the permanent seat of Sangamon County, then comprising an area twice as large as at present.

When Stuart first saw it in 1828 it contained perhaps three hundred inhabitants, living in thirty-five or forty log houses and in some half dozen roughly built frame dwellings. . . .

The (Court House) was located at the corner of Sixth and Adams Streets facing the square. It was a two story frame building the lower part of which served as a court room while the upper part was devoted to the use of Charles R. Matheny,

who combined in his own person most of the county offices. . . .

The State was divided into judicial circuits, each presided over by a judge who held court in regular succession in each of the counties of the circuit. With the judge traveled the bar, composed usually of two or three lawyers from each of several nearby county seats. As the cavalcade arrived in the little village where court was to be held, the various litigants engaged their attorneys, or, if the town happened to boast a resident lawyer, sought additional counsel in one of the new comers. The shade of a nearby tree afforded a satisfactory office in which consultations could be held and pleadings drawn. There were, of course, no libraries worthy of the name.

J. Fenimore Cooper gives us an almost identical picture of a court-room scene in New York State in 1785.¹⁰

A large number of matters were settled extra-judicially, by what we call today, arbitration or conciliation.¹¹

And yet, as population increased, those plans became inadequate. The lay judges in Pennsylvania were being supplanted before 1800. In 1708 Connecticut passed a law admitting lawyers to practice before the courts. In 1709 a set of forms for practice were provided in the same state.¹²

The individual, with the growth of population, began to be separated from the law—not so rudely perhaps as was the case with Daniel Boone, but none the less irresistibly. The effort at simple legal procedure was doomed from the start because of many factors, among them the growth of population. Gradually there came a new stage. The pendulum was swinging between the extremes of a rigid

⁸ Wilmer W. MacElree, *Sidelights of the Bench and Bar of Chester County (Pennsylvania)*, 1918, p. 21.

⁹ Paul M. Angle, *One Hundred Years of Law*, 1928. An account of the law office which John T. Stuart founded in Springfield, Illinois, a century ago, pp. 8 and 10.

¹⁰ *The Pioneers or the Sources of the Susquehanna*, Chapter 33.

¹¹ See Robert's *Digest of British Statutes in force in Pennsylvania* under title Arbitration for the space devoted to this subject.

¹² See Charles Warren, *A History of the American Bar*, passim.

legal system and absolute individualism.

THE CRYSTALLIZED SYSTEM OF LAW

As population increased the control of law made its way throughout the country. Perhaps the best index of the supremacy of the legal system is in the growth of communities into states where through constitutions and statutes a complete organization was finally established. Beginning in 1789 with the thirteen original commonwealths the process continued until New Mexico and Arizona in 1912 were admitted as states, completing the period of organization and presenting us with a body of law controlling all the territory in the continental United States. Growing out of the rural conditions of the second stage this period represents a different point of view.

It was a time of consolidating the legal position rather than of making new advances. Among the leaders were men who were familiar with life in small towns—that is of less than 50,000 population. This stage, also, swept west with the admission of new organized states following closely upon the frontier and rural phases which preceded it.

As the systems of law differed in the various states no generalization as to progress is accurate. It is in order, however, to point out certain trends, keeping in mind, always, that there are others not mentioned.

The fundamental idea of individualism carrying over from the previous stages required that while there must be a system of law, yet before the law all men must be equal. Phrased another way this means that the law must be as close to one man as to his neighbor and that class distinction or wealth shall not be a justification for a difference in the equality of justice

dispensed. The outstanding step in this third stage from our stand point was the writing of this principle into the fundamental laws of the States.

The 14th Amendment to the Constitution of the United States declares that no state shall deny to any person within its jurisdiction, the "equal protection of the law." Leading up to it however are many pronouncements in Colonial and State documents which demonstrate that the idea was abroad from early times and could not be ignored by those who were writing a legal system to be founded on laws, not on men.

The idea passed through a phase where the exact wording is not clearly expressed and finally crystallized into certain well-known forms. This period of experimentation may be illustrated by its progress in Pennsylvania.

In that land of promise equality before the law appeared early in the writings of William Penn. In a letter to the inhabitants of the colony a few days after he was made proprietor and before his first visit in 1681 he says:

I hope you will not be troubled at your change (that is at the appointment of a Penn as a new proprietor), and the King's choice; for you are now fixed at the mercy of no governor that comes to make his fortune great; you shall be governed by laws of your own making, and live a free, and if you will, a sober and industrious people. I shall not usurp the right of any, or oppress his person.¹³

In a later letter he says:

So soon as any are engaged with me (to set out as colonists), we shall begin a scheme or draft (of government) together.¹⁴

In that word "together" lies the essence of the idea.

¹³ See Samuel Janney, *Life of William Penn*, Philadelphia, 1856, p. 170.

¹⁴ *Ibid.*, p. 168.

In 1682, in the Form of Government, Penn thus expressed himself:

That all courts shall be open and justice shall neither be sold, denied or delayed.

That in all courts all persons of all persuasions may freely appear in their own way and according to their own manner, and there personally plead their own case themselves and, if unable, by their friends; that all pleadings, processes and records shall be short and in English and in an ordinary and plain character that they may be understood and justice speedily administered.

In 1690 Penn added the words:

All criminals shall have the same provision of witnesses and counsel as their prosecutors.

In 1776, the Constitution of Pennsylvania, Section 26, provided:

All courts shall be open and justice shall be impartially administered without corruption or unnecessary delay.

In 1790, the Constitution of Pennsylvania, Article IX, Section 11, gave the final form to the idea:

That all courts shall be open and every man for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial or delay.¹⁵

But with all these fine phrases the law steadily grew away from the common man. In spite of the period from 1830 to 1850 when it seemed that the common man had his chance; when "unlimited natural resources and acquired fitness for handling them seemed

but incidental blessings;" when every one agreed that "the political wisdom of the preceding generations had been crystallized and condensed into the constitution" which "was the reality behind all government;"¹⁶ there was still a gap between some people and the legal system. Social and economic class distinctions persisted as one cause.¹⁷ But for our purpose a more interesting factor was the existence of a legal profession and a legal system based not on men but on law. Neither was a completely unmixed blessing.

The growth of the legal profession inevitably, however justifiably, was coming between the individual and the courts.

The profession itself rose rapidly to a position of leadership in the community. A fee became the usual method of approach to the law. There is significance in this for the poor man who cannot pay a fee.

Charles A. Beard in *The Rise of American Civilization*¹⁸ says of the growth of this profession:

More cautious, but especially useful in all verbal contests of economics or politics were the lawyers. Only by gradual stages had they been raised to a high status. In the early days there was no place for them, indeed, they were not viewed with favor by pioneers engaged in the rough work of

¹⁶ See C. R. Fish, *The Rise of the Common Man, 1830-1850; A History of American Life* series, Vol. VI, Macmillan Company, 1927, p. 5.

¹⁷ *Ibid.*, p. 163, "The call of politics as a career was not so general as in the preceding generation, and became less compelling as the years went on and opportunity came to be more varied by new inventions and business opportunities. . . . Some few of the poorer also entered the arena to fight the aristocracy or to make a place in it for themselves." Page 113: "They (the Irish Immigrants) constituted, therefore, what the new life of America was demanding and what America did not possess—a laboring class with no choice but to accept such jobs as were offered."

¹⁸ Charles A. Beard, *The Rise of American Civilization*, p. 100.

¹⁵ For further citations on the same subject in other states, see the index to *Digest of State Constitutions*, prepared by the Legislative Drafting Research Fund of Columbia University (1915).

In particular under the following titles: "Administration of Justice," p. 1; "Courts—Right to Counsel," p. 305; "Right to Life, Liberty and Property," p. 971.

clearing the wilderness. The authors of the Massachusetts body of liberties adopted in 1641, besides expressly permitting every litigant to plead his own cause were careful to provide that, if unable to help himself and forced to employ an assistant, he was to give his counsel "noe fee or reward for his paines." In the founding years of Maryland a local chronicler rendered thanks that there were no lawyers in that colony and no business to occupy such factious members of a community.

In the course of time, however, conditions changed and old prejudices disappeared. When society became more complex and legal questions more involved, the need of skilled attorneys was recognized and in every colony a class of professional practitioners came into existence which grew rapidly in numbers and influence during the passing decades of the eighteenth century. The door once opened, lawyers managed to reach a higher social position in America than their brethren had ever enjoyed in the Mother Country. Still true to feudal tradition, the English nobleman and fox-hunting squire looked down on the attorney as a kind of serving man useful in drawing papers though hardly to be treated as an equal; but there was no such gulf to be bridged in America. Merchants, planters and farmers of the colonies could erect no insurmountable barriers against the disciples of Coke and Littleton.

In politics, similarly—in town meetings and in assemblies—lawyers flourished more abundantly than in England.

Accordingly, the lawyers were well equipped to assume the lead in every public controversy and in fact they did stand in the forefront of the conflict with the Mother Country.

In the American Revolution, however, statesmen and soldiers, led and taught by lawyers, resorted mainly to charters, laws, prescriptive rights, parchment, and seals for high sanction, thus giving a peculiar cast of thought and ornament to the linguistic devices of the fray.

The profession itself was becoming class conscious. Statutes regulated the admission of lawyers to practice

before the courts.¹⁹ Codes of ethics began to be evolved. Lawyers prided themselves on giving legal advice to poor persons without a fee.²⁰

The next step forward, however, placed the relationship between attorney and client on a business rather than a purely professional basis.

In Pennsylvania, in the year 1819, a lawyer sued a client for his fee, and Chief Justice Tilghman²¹ of the Supreme Court laid down the rule that he could not recover, saying:

The single question in this case is, whether an action can be supported by a gentleman of the bar, against his client, for advice and services in the trial of a cause, over and above the attorney's fees allowed by act of assembly; without doubt no such action lies at common law. The connection between counsel and client, in contemplation of law, is honorable indeed. The counsellor renders his best services and trusts to the gratitude of his client for reward.

This fee was not collected. But the condition was remedied shortly.²²

Jurists and courts looking at the situation from the point of view of the profession could not believe that adequate justice was not at all times available, whether or not a fee could be paid.

Chief Justice Sharswood in Pennsylvania in 1854²³ said:

It is to be hoped that the time will never come, at this or any other bar in this country, when a poor man with an honest cause, though without a fee, cannot obtain the services of honorable counsel in the prosecution or defense of his rights.

¹⁹ Charles Warren, *A History of the American Bar*, passim.

²⁰ See *Commonwealth v. Ramuno*, 16 Dist. Rep. (Penna.) 449, for attitude of the courts on this subject in recent years.

²¹ *Mooney v. Lloyd*, 5 S. & R. 411.

²² *Gray v. Brackenridge*, 2 P. & W. 75 (1830); *Foster v. Jack*, 4 Watts, 384 (1835).

²³ George Sharswood, *Legal Ethics*, p. 153.

Yet a later period was to show that multitudes of poor people did not in fact receive the services of a lawyer—not because of his refusal to serve but because the poor person was not in touch with him. The gap between the law and the individual was growing. It was during this period that states began to pass laws providing that poor persons accused of crime should have counsel assigned them for their defense and that counsel should be paid by the county.

To the somewhat homogeneous population of the frontier stage and the classes which existed in the rural community there were added in this and the next periods large bodies of newer immigrants and the impersonal corporation²⁴ each insisting on rights and clamoring for recognition. In the long run many individuals escaped the notice of those lawyers who were ready to serve them without a fee. A man could not come to the law except through a lawyer and often he did not understand how to accomplish even that step forward.

The complicated legal machinery tended to shut out the Common man from an equal participation in the benefits of government. He could not make it function by his own efforts. Some groups of men did not submit readily to such conditions and we see widespread evidences of serious dissatisfaction with the law. Seldom did the popular clamor arise exclusively because of the law, but in many rebellions such as Bacon's in Virginia in

1675-1676; Shays' Rebellion in New England in 1786; the Whiskey Rebellion in Pennsylvania in 1794²⁵ people were found to be willing to go to war because they believed, among other grievances, that they did not secure a fair protection, under the law. Many persons maintain that the Revolution had as one of its causes the belief by groups of people in this country that the laws did not operate fairly.

In spite of objections, some system of law clearly was inevitable. The emphasis came to be laid on another aspect of the problem.

²⁵ For a contemporary statement of the relation between Shays' Rebellion and the law, see: Alexander Addison, *Charges to Grand Juries of the Counties of the Fifth Circuit in the State of Pennsylvania*, published 1800. Now bound with Addison's *Reports of Cases 1800*. In particular No. XII, *Necessity of Submission to the Excise Law*.

1794. Page 101, "Our complaint is against the ordinary exercise of legislation. We have now more than a just proportion of representatives. To fill our just proportion, we may choose whom we please, and we ought not yet to despair, that, in a legal manner, we shall receive redress, for every just complaint. The principles of liberty are completely established in our constitution. Those principles are, that the will of a majority should control the few. We wish now for a liberty destructive of those principles, which we formerly fought, and the French now fight, to establish. Our complaint is, that the many have not yet repealed a law, at the request of the few, and, therefore, we rashly propose war."

See Also No. XIII.

Remarks on the late Insurrection.

December, Sessions, 1794. Page 113, "But that a people living under a settled and free government laws, established by their own will, and changeable when, and to what they please; should have recourse to force to repeal or alter their laws; or to anything but authority to redress their grievances; is not less absurd in itself, than destructive to liberty; and will more effectually promote arbitrary power, discredit democracy and show the inefficacy of a free representative government, than, all the arts and arguments, which its enemies have ever invented."

²⁴ C. R. Fish, *The Rise of the Common Man, 1830-1850*, p. 53, Chapter VIII, *The Politicians*. "In the Pennsylvania Constitutional Convention of 1837 it was proposed that no charter should be granted for the accomplishment of a project which individual activity could accomplish, and in 1851, in Ohio, there was discussion of the possibility of substituting partnership for corporations. . . . The corporations, however, were too well established to be overthrown."

THE STAGE OF ADMINISTRATION OF THE LAW

After a system of law is established the next step is to make it work. We have had distinct urban problems since 1850. While the systems of law in use in large cities did differ from the systems in less densely populated communities, public attention was fixed, not so much on building utterly new fundamentals (though perhaps we might have made a better job if we had approached the problem in this way) as in filling out the original plan intended for a rural or small town community with devices adapted to keeping the law close to individuals when they lived in large groups. It has been largely a period of administration.

When a community has a population of 50,000 or over it is not unfair to regard it as being in the big city stage. Approximately 150 cities of that size now exist in the United States. Modern life is so complex that the census figures for 1920 indicate some 400 different types of gainful occupations, in connection with big cities. In 1920 over 41,500,000 persons were thus employed. The average number of persons per family in cities was 4.2. Other groupings of interest based on wealth, or lack of it, have become widespread. In 1925, only 4,171,000 persons filed income tax returns. The legal machinery kept on growing and required more people to make it function. In 1920, there were 122,519 lawyers, judges and justices in the United States, and an additional 770,000 in public service.²⁶ The foreign born add to the tangle. Many people, perhaps 40,000,000, are concentrated in big cities.

In this vast aggregation of interests and nationalities the individual is even

less noticeable than he was in the prior stages. Characteristic of this period are the overwhelming of the individual by the mass, the resulting tendency of individuals to organize to make the law function in their favor and a change in the position of the lawyer as a leader in the community. The following quotation is from James Bryce's *American Commonwealth* in the chapter on "The Bar." This chapter, written in 1888, is perhaps sufficiently mellowed for the purpose. It shows that some people at least felt that as big cities grew, some of the members of the bar were more interested in the fee than in the administration of justice without a fee.

Bryce says:

But I am bound to add that some judicious American observers hold that the last thirty years have witnessed a certain decadence in the bar of the greater cities. They say that the growth of enormously rich and powerful corporations willing to pay vast sums for questionable services, has seduced the virtue of some counsel whose eminence makes their example important, and that in a few states the degradation of the Bench has led to secret understandings between judges and counsel for the perversion of justice. Whether these alarms be well founded I cannot tell.

Whether or not the accusation was well founded there is certainly some substance in Bryce's further statement to the effect that the millionaire had superseded the lawyer as leader in the community.²⁷

At the same time we find two tendencies, among others, that deserve notice:

(1) Because there are crowds of people, particular types of human problems, instead of occurring in isolated instances become very frequent. As they increase in numbers they shock the moral sense of the community

²⁷ James Bryce, *American Commonwealth*, Chapter XCVIII, on the Bar.

²⁶ *Statistical Abstract of the United States*, 1928.

and in time a group of people take up the question of passing a law about it.

(2) After the law is passed, the general public interest tends to wane until some enterprising person calls attention to the fact that the law in one respect or another does not function adequately with reference to the human difficulty it is designed to solve. The natural response to this is to create some means of making the law or the legal machinery function properly.

Most of these movements are specialized. They attack a particular problem and try to solve it exclusively. Some quarter of a century ago or more people were shocked that children were being tried in the same courts and by the same methods as adults and they established juvenile courts with psychiatric and probation officials to make the machinery work. In the same fashion injuries to workmen, hours of labor and conditions of employment shocked people and there grew up the great body of specialized labor legislation with the inspectors, labor commissioners and workmen's compensation boards to make it work.

The problem of the loan shark, the fly-by-night stock swindler, the bogus insurance company, the deserting husband and many others were thus approached by the development of special laws and special machinery to keep those laws close to the people.

REMEDIAL AGENCIES

The domestic relations court, the juvenile court, the industrial accident board, the labor commissioner, the banking commissioner—these and others are specialized organizations set up to care for special problems. This is their strength. They specialize. At the same time this very specialization represents the limit of their usefulness. They each have a special jurisdiction and beyond that they may not

go to aid the individual. The community needs in addition an organization of general jurisdiction to take care of the cases which cannot be cared for by the specialized agencies.

The second significant step in this last stage of law is the development of a machinery by which the individual, not because he is a member of a group, but because he as an individual, is kept in touch with the law. This machinery is the Legal Aid Society—the poor man's law office. It performs with reference to the legal profession a task similar to the work of the general practitioner of medicine plus the free clinic in the medical field. It gives tangible form to the principle that every man must have a fair opportunity before the law because it is morally right for him to have it and that where the individual is unable to pay for such service it should be given him without cost. Elsewhere one may find in detail the story of the progress of the legal aid movement in the United States, and of its obligation to the organized bar.²⁸ Much has been written of the first specialized society in New York established in 1876 by a group of lawyers and of the eighty or more societies, bureaus and organizations throughout the country today. We know that the various societies today handle over 160,000 cases per year, and the movement is rapidly growing.

What does concern us is just how the poor man is kept close to the law. We may tell this by a brief sketch of a society in actual operation.

The Legal Aid Office is simply furnished with a few desks and chairs, nothing to deter any person, however poor, from feeling that the place is meant for him. There are many other poor persons awaiting their turn so the individual feels at home. The pro-

²⁸ See *The Annals*, Vol. CXXIV, March, 1926, *Legal Aid Work*.

cedure is simple. The client sits down at a desk and tells his story to a lawyer. Experience in this work enables the lawyer to get at the root of the trouble without delay and to make up his mind promptly and correctly what to do.

The types of problem are almost as many as the applicants. Wage claims, landlord and tenant problems, domestic difficulties, installment furniture contracts, custody of children, and a thousand other matters throng the room from morning till night. No two are alike. Each one is of the greatest magnitude to the person who appears.

The disposition of the case is the most important consideration. Dispositions may be classified under certain well defined headings. There are a few cases and clients outside the legal aid jurisdiction, because there is money available to pay a fee. Others, perhaps 50 per cent, require nothing more than a chance to tell the story to a sympathetic listener, a brief statement as to what is the law on the subject, and an appreciative word of thanks from the applicant. Another group of perhaps 25 per cent requires careful investigation. Legal aid societies in other cities, or even other countries, must be appealed to, social agencies invited to assist in certain phases of the work, public records examined, the stories of witnesses checked up, and then a word of advice or statement as to the law on the subject, and the case is closed.

Other cases, perhaps 20 per cent, are so serious that both contesting parties must be brought in and by a process of conciliation or arbitration an adjustment reached. The final three per cent or four per cent are matters for litigation. Yet even here much of the work is *ex parte*, that is, it consists in presenting unopposed petitions to the court for the appointment of guardians

of minors, or feeble-minded persons and situations of similar import. On occasion, cases will be fought all the way up to the Supreme Court of the United States.²⁹

Thanks to the efforts of the Legal Aid Society, the poor man is in close touch with the law. Complicated machinery does not keep him from his rights. If he wants to ask a question about his wages or his rent, he sits down in a chair at the attorney's desk and tells his story. Only those who have listened to such recitals realize the heartaches, the savage attacks on government, the family disputes, neighborhood quarrels, and the hundreds of similar, to us minor, tragedies which the Legal Aid Society adjusts.

With the coming of this organization the loan shark, the swindler, the brutal husband or father and countless other disagreeable persons have met an antagonist who champions the weak and oppressed, not for a consideration, but solely because the victim is an individual and as such is entitled to all the rights which our individualistic form of government grants in theory to individuals. Here is an able ally of the organized bar.

The last stage of administration of the law has given us a machinery flexible enough to care for all cases of poor persons just as a lawyer would care for them in his private office—and at the same time specialized enough to go into the administrative tribunals such as workmen's compensation boards and compete on equal terms with the lawyers for insurance companies and employers.

The problem of keeping the law close to the people because they are individuals is being solved at the present time by the legal aid movement. It is no panacea, and perhaps in a future

²⁹ *Bountiful Brick Co. v. Giles*, 48 U. S. Supreme Court Report 221.

stage of society it will be superseded by some organization better fitted to the conditions of that future day. But with such organizations in existence the equal administration of the law in this country, the respect in which it is held by the public at large and the

retention of that individualism which has been a national boast, appear more certain than at any time since the Kentucky Court dispossessed Daniel Boone and the strong arm of the law overcame the strong arm of the individual.

Legal Aid Service in the Criminal Courts

By TIMOTHY NEWELL PFEIFFER

Chairman, Committee on the Defender in Criminal Cases of the National Association of Legal Aid Organizations; Member, New York Bar

IT is perhaps inevitable that general public interest in the "prisoner at the bar" is confined to sensational cases of murder and official corruption. Such cases, hideously exploited by a large section of the press, seem to satisfy that same cruel lust in men that made the games of the later Roman Empire so popular. Not even a good old-fashioned hanging, with the crowd alternately jeering and cheering the last speech of the doomed, could compete in cruel mockery with a prolonged modern trial of first page, double headline attraction.

And yet, in spite of the ill-repute deservedly brought down upon our courts because of their inexcusable laxity in permitting such abuses of judicial administration, it is not the widely heralded sensational cases that claim the primary attention of students of criminal justice in America. Only a superficial knowledge of present conditions in our criminal courts is necessary in order that one may understand how vastly more important to the welfare of the state is the proper disposition of the daily grist of cases of humdrum crime in which the central figure is a forgotten man, the prisoner at the bar without funds or friends.

Because there are so many of them, and because they are the easy prey of the vicious forces that encompass the administration of criminal law, these forgotten men and their problems are now beginning to attract the attention of social workers and lawyers.

A NEGLECTED FIELD OF RESEARCH

Since the rise of corporations, city lawyers have consciously avoided prac-

tice in the criminal courts. The result has been that practice in these courts has fallen largely into the hands of "untouchables"—that motley group of lawyers existing in every American city, which derives a precarious living from the spoils of the criminal court, unhampered by any code of professional or personal ethics. It is not surprising, therefore, that bar associations have given little thought to the problems of the administration of criminal law, and indeed ignorance of conditions on the part of the reputable city lawyer is so profound that most bar associations approach these problems in an ineffective, academic fashion which culminates usually in sanctionious resolutions against the evil-doing of the shyster lawyer. No first-hand investigation is made, disbarment proceedings are not brought—the same old game goes merrily on.

Social workers, too, have been intent upon their increasingly delimited spheres of activity. Like the lawyer, the social worker has his specialty and is prone to neglect the problems with which his daily activity does not bring him to close grips. In very recent years, however, individual lawyers, bar associations, legal aid organizations and social workers, have become conscious of the importance of adequate representation of the poor defendant in a criminal case, and the system of assigned counsel, now generally in vogue, is being scrutinized and debated in many communities. We have come to realize that the great majority of all defendants in criminal cases—except bootleggers—are poor, too poor to employ counsel. More often than

not, they are young, immature first offenders, and not hardened criminals. What manner of man it is who conducts the defense of the poor defendant is therefore the spearpoint of the attack upon present-day conditions in our criminal courts. Baumes laws, more judges, changes in the technical rules of evidence and procedure are as nothing in importance compared with the essential prerequisite of honorable and experienced counsel, equipped with an adequate staff of investigators and possessed of the confidence and respect of the court and the prosecuting attorney.

A SOCIAL AND LEGAL PROBLEM

The prevailing system of haphazard assignment by the court has broken down. No informed lawyer or judge denies that this is the fact. Little, however, has been done to effect any change, except in a comparatively small number of communities. The causes underlying this inertia are as difficult to remove as they are patent, viz., the intense conservatism of the legal profession, the political patronage inherent in the assignment system and the supposed furtherance of the legal careers of young, inexperienced lawyers.

The due administration of the law in the preservation of human liberty is a topic of discussion in every assemblage of lawyers. It is the lawyer's greatest pride that historically his profession has been the chief bulwark in the preservation of that liberty through the administration of law. Modern conditions demand that the profession shall examine anew the meaning of "due" administration of law in the criminal courts and ascertain what substitute may be found for the assignment system. Primarily a problem for lawyers, its scope is so broad that it impinges directly upon the prob-

lems of thousands of families with which social welfare organizations are grappling. An effective solution is more likely to be achieved, and achieved quickly, if lawyers and social workers can be brought to a common understanding. This is not easy of accomplishment. The social worker tends to regard the lawyer as altogether too technical, the slave of the past, while the lawyer, on the other hand, has an instinctive distrust of the social worker as lacking in historical perspective. One insists upon setting out on the highway of reform without delay—the other refuses to move until he knows the destination, and, often too meticulously, all the intermediate points along the road. But the two points of view have been reconciled in many branches of the law, as the enactment and successful operation of workmen's compensation acts and numerous acts, setting up state boards have proved, and it is becoming evident that in the legal aid organizations, functioning as they must in both legal and social fields, are to be found the agencies by means of which the present unsatisfactory assignment system will be superseded. Not in every community will the legal aid society do the work itself. In some instances there will be public officials, but the initial urge and mobilization of professional and public opinion will come from these organizations and their sponsors, who everywhere include both lawyers and social workers, and who are convinced that the solution lies in the employment, either at public or private expense, of experienced attorneys who shall be available at all times to represent indigent defendants in criminal cases, and who shall have a sufficient staff of investigators so that no case shall be tried or otherwise disposed of without a thorough knowledge on the part of the court, the prose-

cuting attorney and the defendant's counsel, of all the material facts.

THE FUNCTION OF A DEFENDER

It is commonly assumed by the public that the principal function of the defender will be to prevent the conviction and imprisonment, or execution, of the innocent. The experience, however, of the New York defender organization shows that the instances of such injustice are rare.

The great opportunity which lies open to the defender is to revitalize the meaning of that profoundly significant phrase "the due administration of the criminal law." Mere compliance with form is not enough; the unscrupulous prosecutor knows how to make a record that will withstand attack upon appeal, and likewise counsel for the defense is skilled in avoiding contempt of court. Yet every canon may have been violated in the proceedings before trial and in the trial itself. Evidence may have been suppressed, witnesses spirited out of the jurisdiction, perjury knowingly condoned, if not suborned, unfair advantage taken by means of inflammatory remarks in the presence of the jury, and, gravest of all to the individual on trial, available evidence in his behalf not presented to the court and jury because of the failure of his counsel to procure it. All these evils, and many more, are witnessed daily in every large criminal court, and it is foolhardy seriously to think that under such conditions the due administration of justice is possible in our criminal courts.

But if the defender can summon to the defense of the poor and ignorant, whether innocent or guilty, the intelligent presentation of facts and the fidelity to the highest standards of the legal profession which is the ancient privilege of every lawyer, his example will inevitably become the criterion by

which all lawyers practicing in the criminal courts will be judged.

Specifically, what is it that the defender can do?

IMMEDIATE INVESTIGATION

The first requisite of an adequate representation of a person accused of crime is a prompt and painstaking examination of the facts of the case. Delay will often be as disastrous to the defense as it is in many cases to the prosecution. The taking of statements from witnesses must frequently be done quickly. The prisoner must be interrogated as soon as possible after arrest in order that there may be time before the commencement of the trial to check up on his version of the facts, to investigate his reputation and work record, and to ascertain his mental and physical condition.

Nothing is more difficult in the average case than to establish an alibi to the satisfaction of a jury. The testimony and other evidence to be offered in support of the plea must be checked and rechecked lest it turn out to be a source of weakness rather than strength. To some extent the same may be said of a plea of self-defense in cases of assault or homicide.

Again, the ignorant poor defendant usually is not capable, even if innocent, of telling his story convincingly to the jury unless he has gone over it in detail and discussed the facts thoroughly with counsel. This is not to say that the defender will coach him—the defender will simply do what a conscientious lawyer ought to do, namely, make just as definite and certain as is possible what it is that his client will testify upon direct and cross-examination. No case is well prepared unless the preliminary examination of witnesses has been carefully done. In New York the defender has found that his investigation of the prisoner's story

has frequently resulted in showing that story to be false, and after further conferences has succeeded in getting an admission of guilt with a subsequent change of plea and speedy disposition of the case. Social workers are of great value to the defender in unraveling the web of suspicious circumstances that sometimes beset the ignorant defendant—especially is this true of the cases of sailors, longshoremen and other itinerant workmen.

No such investigation is made by assigned counsel. He has no facilities for such drudgery and most prisoners are lucky if the efforts of assigned counsel are not confined to extracting the maximum fee possible from his relatives and friends, with dire predictions of long years of imprisonment unless money is paid. When the most has been thus obtained, the defendant is then advised to plead to some lesser offense, or, if this is too "raw," the trial is begun with no preparation and the assigned counsel relies upon his own cunning to secure an acquittal. And if he is experienced in the ways of assigned counsel, his own cunning is a formidable weapon.

A further great advantage of timely investigation is the early discharge by the court of those defendants who have been improperly indicted or against whom the prosecutor has no provable case. If the defender possesses the confidence of the prosecutor and court, as in New York, he makes known the results of his investigations to them, and such cases are forthwith dismissed, with consequent saving of time and expense.

A FAIR TRIAL

Appellate courts are constantly called upon to determine whether or not the defendant has had a fair trial in the court below. But the limit of the court's inquiry is the record before

it—the cold pages of printed or typed openings, testimony, exhibits, summations and charge. Though generally adequate for the purposes of appeal, the record often fails to reveal the prejudicial manner in which a trial has been conducted by the prosecuting attorney or court; and obviously the defense attorney's improper conduct, if there has been an acquittal, cannot come before the higher court. Moreover, the record takes no account of what might have been, but was not, brought out in exculpation of the defendant, provided the proof offered by the prosecution sustains the verdict. It is desirable, therefore, to do more than merely examine the record, to determine whether a criminal trial is fair, and particularly must other factors be taken into consideration in seeking a remedy for existing unsatisfactory conditions surrounding the conduct of criminal trials.

As conducted today, an ordinary criminal trial in which the charge is larceny, burglary, assault, or robbery, is either a battle of wits between opposing counsel, or a game in which the cards are stacked, sometimes by the prosecution, but more often by the defendant and his counsel. If the counsel has been assigned, it is likely to develop into a farce—with a tragic end.

An adequately equipped defender, on the other hand, will conduct the defense in such manner that a fair trial will result, fair both to the state and the defendant. He will not delay the trial except for good cause. He will not resort to trickery. He will not suppress evidence. He will not knowingly permit his client or witnesses to commit perjury. He will prepare his case and present all the evidence available in behalf of the defendant. He will insist that the prosecutor present the state's case in due form and

free from inflammatory appeals to the jury. His demeanor in the presence of the court and jury will be dignified. He will be a host unto himself in setting the "tone" of every trial in which he is a participant and very shortly will other lawyers catch on or be forced out of practice in the court.

INDIVIDUALIZING THE SENTENCE

Perhaps no function of the defender is more important than his address to the court at the time of sentence. Most cases do not go to trial—the defendant pleads guilty and the defender's duty is to bring to bear upon the mind of the court whatever can be said in legitimate extenuation and in calling attention to the appropriate institution for commitment. Here the social worker may often guide the defender wisely, and because, through his investigations and his close and continuous contact with social agencies, the defender will have avenues of approach and special knowledge which are not open to the ordinary assigned counsel, he can, in the brief interval between the plea of guilty and the day

of sentence, marshal the facts of the crime, the defendant's record of education and work, his environment and heredity, and especially his physical and mental condition. No one disputes that these are all matters which ought to be presented to the court. But that they are not, in the typical assigned case, is notorious. Everywhere probation officers are overburdened by the number of cases heaped upon them, but even if they were not, it is not their duty to represent the defendant. That is counsel's duty, and it cannot be delegated with justice to the person whose life or liberty is at stake.

The administration of criminal law in America has become a by-word. The dregs and derelicts of the profession haunt the halls of its courts. Yet it may not be altogether foolhardy to predict that from those halls will emerge the figure of a defender who will exemplify the finest tradition of our Bar and who will light a lamp that trial counsel in all courts, civil as well as criminal, will acknowledge as their own.

Law Under the Microscope

By REGINALD HEBER SMITH

Member, Boston Bar; Chairman, Standing Committee on Legal Aid of the American Bar Association

WE live in a large country and in the midst of a complex civilization. Our law is engaged in the ceaseless effort to order and control, in certain directions that are essential to individual safety and public well-being, our exuberant national life that like a powerful stream is always seeking new channels and outlets or threatening to break through all restraining walls. It often seems that the perpetuation of our civilization depends constantly upon a race between the instinctively destructive and degenerative factors—the centrifugal forces of life—and the diligent work of scientists to ascertain, understand, and provide constructive remedies for them.

PROBLEMS OF ADMINISTRATION

A "movie" news reel boasts that it "sees all and knows all," but the problem for governments, legislatures, legal and social scientists is to *see* enough of our multifarious and manifold activities to *know* enough to deal with them wisely. The only possible method open to us is to classify, arrange, and summarize phenomena by the laborious and unromantic process of fact gathering and recording. Thus a mass of factual material is obtained and can be reduced to comprehensible form from which trained observers may draw trustworthy conclusions. In manufacturing, the rule of thumb has been supplanted forever by measuring instruments of marvelous precision which have made possible the standardization of machine parts. Modern large-scale business would be an

absolute chaos were not supervision and direction made available through splendidly accurate cost and accounting systems.

Legal scientists know that the same technique must be applied to the law if it is to be kept abreast of the needs of an ever-changing social order, but the task is of appalling difficulty. Since the law deals so largely with human beings who are immeasurable it can never attain absolute precision, but for that very reason it is essential that its field of ascertained knowledge be carried to the utmost limit. The inevitable margin of error must be minimized by extending in every available direction the frontiers of what we can find out about the law in actual operation and in its practical effect on the lives of our fellow citizens.

That the administration of justice is perhaps the most obdurate material that statistical method has ever tried to cope with is attested by the fact that every survey of legal conditions begins with a lament at the paucity of reliable data. Our courts, especially our municipal courts, and our police departments are commencing to do much better. The need for facts, even of the most basic sort, has recently led to the creation in several states of Judicial Councils which are continuing bodies making annual reports of all available control data. But all this work has the great shortcoming that it can touch only a part of what we need to know.

The efficiency of a legal system cannot be tested solely by the cases that

get into court. The most glaring failures consist of cases that, for one reason or another, do not come before the courts at all. These are the cases in which the law fails to accomplish justice. It is the bar, and not the courts, that stands at the vantage point from which to watch the impact of law on life, and to note when and how the law is impotent to deal with new problems and conditions that result in injustice. The lawyer is told the facts as to what has happened to his client; if there be a legal remedy, he starts action; but if there be none, the matter ends. It is precisely these matters that need to be known. Here are the flaws in the legal structure that need repair. The bar associations endeavor to bring such instances to light, their work is highly commendable as far as it goes, but necessarily it is a hit-or-miss and not a scientific method of approach. To a large extent this is inevitable because the needed information is scattered among many different law offices. There is little chance to adduce the cumulative weight of many cases which is indispensable to law reform. To put it another way, a thousand cases revealing the same legal defect but spread through a thousand separate law offices do not register the fact of the defect strongly on anyone and nothing happens, but a thousand similar cases collected and presented through one channel will receive immediate attention from the legislatures.

LEGAL AID THE SOLUTION

Undoubtedly the best solution lies in making accessible and available the enormous mass of material contained in the files of the legal aid organizations of the country. The volume of this work is so great that it provides a base broad enough to be relied on. Already these legal aid offices have dealt with nearly three million cases, and each year ap-

proximately one hundred and sixty thousand persons apply to them for help. The work is carried on by upwards of seventy different societies or bureaus, but most of these joined together in 1923 to form the National Association of Legal Aid Organizations. Thus it has become entirely possible to organize and correlate a huge number of actual cases arising in all parts of the country.

It is encouraging to realize that the legal aid organizations are themselves conscious of the unique public service they may perform through intelligent analysis of their own work. For five years they have been quietly moving in this direction, and the first fruits of their efforts have appeared. It seems fair to say that they have faced and overcome their most difficult preliminary problems.

Any student of existing legal institutions would like to know what kinds of cases happen that cause so many thousands of persons to seek legal aid every year. The National Association of Legal Aid Organizations can now answer that question; but before it could do so it had to devise a standard set of case classifications and secure their adoption by the various legal aid societies and bureaus. A special committee in 1923 analyzed the various classifications then in use and reduced them from 250 conflicting and overlapping case names to 76 uniform, standard classifications. The committee's work was well done and gradually the legal aid offices have given up their own individual terminologies and learned to compile their records according to the uniform standards. The committee likewise devised standard headings to denote the sources from which cases came to the legal aid offices, and standard disposition headings to show what work was done and what results were obtained in all the cases.

The task of persuading all legal aid offices to conform to these standard classifications is not completed, but it has proceeded far enough to permit an analysis of nearly one hundred thousand cases to be made annually. Since 1924 the offices have, in increasing numbers, reported their statistics to the National Association which last summer compiled and published the records for the years 1924, 1925, and 1926.

These records are in detail and are too extensive to be reprinted here, but a number of significant high lights may be selected and described. One of the most striking facts is that only 7 per cent of all the cases required court proceedings (6 per cent in 1924, 7 per cent in 1925 and 1926). This shows that of the legal problems arising in the lives of men and women only a small proportion are determined and disposed of in the courts; and it reemphasizes what has been said earlier about the need for a fact-finding agency that could watch the operation of the law *outside* the courts. Apparently the legal aid organizations are in a position to perform that responsibility satisfactorily, and a little later concrete illustrations will be given of how important is this particular responsibility.

These legal aid offices are in a peculiarly advantageous position to know when some legal maladjustment has occurred or is threatening because, in each community, they are in direct contact with all public offices and private agencies to which poor persons in legal distress might go. A large part of their cases come to them every year by reference from the courts, police, hospitals, lawyers, social service agencies, employers, newspapers, industrial accident commissions, and district attorneys. Thus they constitute clearing houses of information pertaining to the legal problems of the average man. Here in embryo is the same opportu-

nity for diagnosis and study that our great hospitals have for years afforded to medical science.

It is a tribute to the general efficiency of legal aid work that each year nearly 10 per cent of its applications comes from clients whom they have previously served and another 10 per cent from persons who were referred to the legal aid office by individuals who had themselves been clients. These two groups tend to increase, together accounting for 15 per cent of all applications in 1924, 16 per cent in 1925, and 19 per cent in 1926.

Finally, for our purpose it is significant that approximately one-third of the clients are classified as "direct applications." For the two years 1925-26, out of 170,000 cases that were classified 57,000 came by direct applications. This means that the client came to the legal aid office, not because he was sent there by someone, but because he himself knew that was the place to go. The existence of a legal aid organization in each community is gradually becoming a matter of common knowledge, so that just as we know without being told that the place to report a fire is to the fire department and a theft to the police station, so the poorer people are learning that when they are confronted with a legal problem they should go to the legal aid office.

It would be difficult to exaggerate the importance to our legal well-being of this increasing awareness on the part of the poorer people as to what to do and where to go when they believe they need legal redress or protection. The phrase "poorer people" does not mean only the destitute. It includes all persons whose financial position makes it impossible for them to retain and pay for private counsel of their own, and thus it embraces a large proportion of our wage-earners. While exact figures necessarily are unascertainable, it has

been conservatively estimated that legal aid work affords the only practicable system for safeguarding the individual legal rights of approximately twenty million of our population.

Many of the worst legal abuses of the past have been possible only because the victims suffered in silence, not knowing where to turn. An example is the extortion formerly practiced by loan sharks. Every such loan was usurious and void at law, but the lenders found that they could violate the law with impunity. No system of court records could reflect this condition, although it cried aloud for redress, for such cases rarely were brought to the courts, and no relief was had until the Russell Sage Foundation succeeded, after painstaking research, in assembling the facts and in devising legislation that has entirely revolutionized the making of small loans.

There is a growing body of evidence indicating that exploitation today goes on through wholesale non-payment of wages. A contract for wages can be enforced in the courts like any other contract, but the unpaid wage earner cannot afford to litigate a claim for ten or twenty dollars; and he has not known what to do. In fact there is a good deal that he can do, but it has been slow work getting to him the necessary information as to his legal rights. As the legal aid organizations secure greater publicity and wider recognition they are certain to penetrate these barriers of ignorance and fear, and wronged persons will turn to them instinctively. In addition to furnishing aid in the individual case they will be able to detect the general underlying problem and move for its correction.

TYPES OF CASES

When we turn to the legal aid records for the three years now available we see at once that the largest single

type of case in which help is sought is composed of wage claims. Certainly too many lawyers and probably too many members of the general public think that the only cases of the poor are claims for personal injuries arising out of street car and automobile accidents or compensation claims growing out of injuries sustained at work. This is not true. Such cases, grouped in the legal aid records as "Torts" accounted for only 8 per cent of 227,557 cases analyzed in the three-year period, as against 55 per cent consisting of cases growing out of contracts or contractual relations and made up, not altogether, but very largely, of wage claims.

Analyzing the wage claim figures more closely we find marked disparities between legal aid offices in different states. In 1926, on the one hand, 54 per cent of all legal aid cases in Kansas City were wage claims, in New York 50 per cent, in Chicago 32 per cent, in Grand Rapids 31 per cent; and, on the other hand, in Boston the proportion drops to 12 per cent, and in San Francisco to 2 per cent. This sharp difference reflects a difference between the laws of the two groups of states. In Massachusetts and California there have been enacted special statutes to facilitate the summary collection of wages. These laws impose penalties on employers who refuse to pay promptly, and furthermore they authorize and empower labor commissioners (who are state officials) to bring prosecutions in behalf of employees. These two states have genuinely succeeded in coping with the problem of non-payment of wages. The difference between Boston and San Francisco is undoubtedly due to the wider scope and more rigorous enforcement of the law by the California Labor Commission.

These figures tell a clear and straightforward story. A more convincing

demonstration can hardly, in the nature of things, be afforded to any legislature that faces the need for some action and is groping for a practical solution.

Let us next examine a converse situation. After the Liberty Loan drives, which for the first time taught millions of persons of moderate means something about purchasing stocks and bonds, there was an epidemic of fraudulent, "high-pressure" sales campaigns of worthless securities. To check this "Blue Sky" laws were passed in nearly all states, in one form or another, requiring registration of brokers and salesmen and the furnishing of all material facts concerning a proposed new securities issue to a public commission. It would appear that these provisions have been largely successful. Certainly the legal aid records disclose no evidence of continued abuses. Either the law itself or the summary redress which the public commission can afford has sufficiently discouraged the unscrupulous operator. For three years the legal aid records are constant in showing that only a trifling number of complaints—less than one-half of one per cent of their annual intake—have originated in sales of securities.

In direct contrast is the situation about wage assignments. While many legal aid office records show that the problem of safeguarding the assignment of future wages has been adequately provided for by the legislatures of their respective states, Atlanta reports something radically wrong, for in 1926, 38 per cent of all its applicants were in trouble about wage assignments. The actual number of cases had grown from 7, in 1924, to 79, in 1925, and to 225, in 1926. The trouble in Atlanta was a new effort to evade the Uniform Small Loans Act by a device that purported to be a purchase of future wages. If an employee had 25 dollars in wages coming to him a week hence

he "sold" them to a "buyer" for 23 dollars cash and completed his bargain by assigning the future wages to the buyer. It can readily be seen that 2 dollars interest on a 23 dollars loan is over 8 per cent per week and more than 400 per cent per annum. The group in Atlanta that started and successfully exploited this plan not only found its most determined antagonist in the legal aid society, but as it extended its operations into other states it found that Atlanta had sent warnings to all her sister societies in other cities whose attorneys were thus put on guard. In Buffalo, Chicago, and Cleveland cases revealing the spread of the plan were soon reported and the legal aid attorneys coöperated with the public authorities in several instances where the "sale" was determined to be a loan and in contravention of law.

While wage claims form the largest single type of legal aid cases, the second largest type, unfortunately, is composed of matters growing out of domestic relations, primarily disputes between husband and wife. That marriage under the strain of present-day conditions is not solely a problem of the rich and well-to-do, but in its ramifications directly touches all classes, is seen from the fact that consistently for three years 17 per cent of all legal aid cases has had to do with family relationships. That the percentage is constant of course means a growing number of such cases, because legal aid work as a whole is growing; the actual increase being from 13,283 domestic cases, in 1924, to 13,843, in 1926.

In this perplexing personal and social problem for which neither philosophy nor religion nor social science has as yet found a practical answer, the observer must walk warily. It is axiomatic, however, that in only the most desperate situations is resort had to the law so that these cases represent the most

acute form of distress. The law is a clumsy instrument when applied to intimate personal relationships; it can no more enjoin man and woman to love each other than King Canute could control the tides. But as it is the only possible final resort and as its strong arm is the one bulwark for the rights of the children, legal scientists need to know just as much as they can possibly learn from every available source.

The legal aid offices are seldom called on to deal with alimony. Among the poor, divorce is generally followed by the remarriage of both parties, and the wife rarely expects, and if she does expect can rarely get, alimony from the slender pay envelope of her former husband who has assumed a second set of obligations. The legal aid cases involve mainly desertion, non-support, and judicial separation. The records on divorce are inadequate because many of the societies and bureaus from considerations of public policy have refused to bring divorce petitions. This seems an unenlightened point of view and it is, in fact, gradually being discarded. Once their attitude is reversed it is not unlikely that they will be asked to institute thousands of divorce proceedings, just as happened in England after 1914, when the courts for the first time adopted rules under which divorce became a practical possibility for the humbler classes of society. Whether we approve of divorce or not, it must be clear that wherever the law allows divorce for cause that remedy must be open to all persons irrespective of social position or financial standing.

CRIMINAL MATTERS

All the statistical records and illustrations used thus far have necessarily been drawn altogether from civil cases because the legal aid organizations have got their system of records well under

way only as to the civil side of their practice. The public defenders' and voluntary defenders' offices will some day be made to yield their valuable contents, illuminating the practical conduct of criminal proceedings. A special committee of the National Association of Legal Aid Organizations in 1928 filed an admirable report setting up standard classifications for criminal matters and stated:

The keeping of records as to the way in which the law operates makes the legal aid society or defender office a laboratory from which invaluable information may be evolved for future legislation, for social action, or for the education of the public as to whether or not justice is being administered.

Such records from the criminal side will have a special and most timely value. While the American public is regaled with crime waves and nearly everyone knows that our criminal justice is antiquated and cumbersome, it will apparently take a great deal of hammering and the presentation of cogent evidence to set the legislatures on the right road to reform. Progress can only be made by sticking to a few fundamentals in criminal procedure and scrapping all the archaic artificialities with which it is cluttered.

The early English system which we inherited made the mistake of punishing crimes too severely and the further mistake of forbidding the accused to be represented by counsel and then, as though to redress the unjust balance, tried to surround the accused with the pseudo-protection of a highly elaborate system of technical procedure. What is really needed is the guarantee of a fair trial in open court before an impartial judge with *both* sides represented by honest counsel, and then the procedure can safely be made as simple, direct, and expeditious as possible. The analysis of a large number of cases by public

defender offices from the defendant's point of view will, I believe, demonstrate that the only sure safeguard for innocence is adequate representation by counsel and, furthermore, that that is all the protection any defendant needs or is entitled to. When that can be proved to legislatures the reform of criminal procedure will be greatly facilitated.

FUTURE OPPORTUNITIES

As legal and social scientists have increasing opportunity to watch the law in action under the microscope and to detect breakdowns by being able to isolate and then investigate special phenomena that may appear, we shall do much better in meeting the demand of the people for a more effective administration of justice. Law must al-

ways lag a little behind public opinion because it can wisely be made law only when public opinion has crystallized. In the never-ending effort to keep law as closely attuned and as responsive to life as may be the more extensive use of accurate records will be a most powerful weapon in the hands of those who are teaching, studying, or ministering to the law in a scientific spirit. They will find that as time goes on the legal aid records are of increasing value and widening scope. In the near future it should be possible for the legal aid organizations each year to collect, analyze, and summarize for public guidance the evidence afforded by two hundred thousand actual cases as to how the law is performing its all-important task of protecting and promoting individual and public welfare.

The Need for Specialization in Legal Aid Cases

By SAMUEL B. HOROVITZ

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YEARS ago, when men settled their legal quarrels by holding red-hot coals, by plunging arms into boiling oil, by hiring substitute warriors, the number of legal difficulties in a given neighborhood were comparatively small.

But with the expansion and commercialization of society, with the advent of machinery, the factory system, automobiles, telephone, radio, aeroplane—an entirely new problem has arisen. Mankind can no longer settle controversies by the barbaric methods of old. Imagine the result if every wife, complaining of non-support, could require her husband to prove his innocence and purge himself of guilt by seeing if the hot coal really did burn his arm-pit! If it did, he was guilty! Or if an injured workman could require his employer to keep his hand in boiling water, to test the employer's innocence of wrong-doing! Or if landlords, unjustly evicting tenants, could hire substitutes to give battle to the outraged payer of rent!

With new and increasing legal controversies came new and different legal machinery. Class distinctions became inevitable. The working class arose, as distinct from the employers of labor. And the working group naturally fall into two divisions: the middle class and the poor.

The poor man has his share of legal troubles. Prohibited by the law from settling his controversies by ancient methods, he is compelled to resort to court action. Prohibited by the technicalities of court rules from success-

fully prosecuting his own case, in the large majority of controversies, he is compelled to hire a lawyer. Prohibited from hiring a lawyer for lack of funds, he naturally would become an incipient anarchist—but it is here that the legal aid societies step in.

With over 90 legal aid organizations situated in the larger cities throughout the United States, supplying attorneys at small cost or at no cost at all to the poor man, the working man unable to employ private counsel is no longer helpless. But the poor man, while he wants the "poor man's lawyer," does not want a poor lawyer. It is not enough that the legal aid organization give him a lawyer; it must supply an able lawyer or it only partially performs its service to its client and its contributors.

THE PROBLEM

And it is here that the problem begins. Legal aid societies rarely lack clients. The poor are always among us; and their number is legion. Their problems cover every phase of the legal field. And the majority of their troubles are of a legal-social flavor. Thus, for example, in 1927, 8,241 persons applied to the Boston Legal Aid Society for help. They were of all colors, sizes, sexes, and nationalities; 517 were born in Ireland; 303 in Russia; 417 in Italy; 380 in Canada; 46 in Lithuania; 41 in France; 42 in Germany; 51 in Greece; 97 in Poland; and so on—56 countries supplying the basic material for legal aid consumption. But the vast majority, 5,642, were

American-born; they were the product of our own land, reduced by circumstances to asking legal aid from a quasi-charitable agency.¹

And what did they want of the legal aid society? Six hundred and five tenants thought they had some grievance with their landlords; 1,345 wives had stories to tell about their husbands; 346 workmen felt that their employers and the insurance companies wrongfully denied them compensation for injuries at work; 467 persons were upset over difficulties with both legitimate and illegitimate children; and 409 victims of installment contracts came with the usual tale of woe, begging for relief.

The mind is a peculiar thing. While to the reader, the failure of an insurer to pay \$100 in compensation, or of the landlord to wait another month for his rent, may be of trifling importance; yet to the harassed client, nervously upset by his all-consuming controversy, nothing else seems to matter. We cannot ignore the poor laborer. He is just as much a unit in society as his more fortunate brother. He is a necessary spoke in the wheel of industry. And it does not suffice to simply shrug one's shoulder and to ignore the poor man's problem.

Nor does it do the legal aid organizations any good to say, "Well, we'll give him a lawyer—any kind of a lawyer will do." The problem of the legal aid society is a real one: not only to supply the lawyer, but to supply a good one. It is one thing to say, "We interviewed 8,241 clients in 1927." But what did the society do for those clients? What did it do for those anxious tenants, those helpless, injured employees, the unsupported wives and children? Did it merely give a lot of desk advice and ship the client to some other agency?

¹See Report for 1927, the Boston Legal Aid Society.

In many instances, advice was all that was needed; but whatever is needed, the advice or action should come, as far as possible, from a legal aid specialist.

A SUGGESTED SOLUTION— SPECIALIZATION

The solution of the internal legal aid problem, of supplying the right lawyer for the right cause, lies in the further extension of the principles of specialization.

The wife wants to know if she can compel her husband to support her, whether she can leave him because of his continual drunkenness, whether she can establish a separate domicile, and a hundred and one other questions. Theoretically, all lawyers know all the law. Practically, no one is a master of all branches of the science of law. The attorney dispensing the advice on marital difficulties should be a specialist on that subject.

A workman applies to the legal aid society for help. He was injured at work on a dock and fell into water, while helping unload an interstate train and loading a local barge nearby. Does he come under the State Workmen's Compensation Act, or under the federal laws, or under the recent Federal Longshoreman's Act, or is he somewhere in the twilight zone between federal and state jurisdictions, where there exists no remedy except to put him on the charity list of the social agencies? Only the specialist in this type of legal work is equipped to give the workman the necessary advice and action. The general practitioner can hazard an offhand guess—but that is all.

And the problems of the neglected child, the illegitimate child, guardianship, custody and adoption, require the services of a specialist. It is unfair to the legal aid lawyer to expect him to

know accurately all the material decisions in every branch of the law. Whereas the specialist who fails to know his own field, with a reasonable degree of accuracy, does not deserve the name of specialist.

Specialization no longer needs advocates. It has proved its value in almost every field of endeavor. The larger and better colleges no longer allow a single man to teach history, music, physics and the Greek language. Gone are the days when a single professor, with all four of his students, roamed about the streets and discussed and taught every field of knowledge.

And in the medical field, much of its progress is well attributed to the advent of specialists; for example, those men who devote their entire lives to the study of tuberculosis alone, or cancer alone, for the benefit of humanity. The time has already come when we want a throat specialist to remove our tonsils, certainly in preference to a general practitioner, and generally in preference to a surgeon. If our eyes hurt, we do not visit an orthopedic specialist; and the general practitioner, if called upon, will generally send us to the eye specialist. And so on, from the internist to the neurologist.

Even in business, specialization finds illuminating examples. The fur store, the silk shop, the shoe store and the like are modern examples. But, as is to be expected, the general practitioner—the variety shop—still lingers on.

And in the field of law, specialization has already taken a permanent foothold. The traffic courts, the domestic relations court, the Industrial Accident Board, are among the leading examples of legal specialization. The bench is well on the road to specialized justice; and the bar is following. The corporation lawyer, the tort lawyer, the real estate lawyer, and lately, the workmen's compensation experts, rep-

resenting insurance companies mainly, have appeared in the field of law.

The legal aid societies, employing from one to twelve or more attorneys, for clients whose misfortunes cover every field of the law, are just beginning to see the value of specialization. In Boston, some degree of specialization has already taken place. One man is in charge of workmen's compensation; another of Municipal Court work; another largely of Probate Court work; still others handle the work of certain charitable organizations.

A state clinic of workmen's compensation cases is being run in connection with the Chicago Legal Aid Bureau. One lawyer is in charge of such cases.

But specialization should go further. Where the number of cases handled warrants the employment of separate attorneys, the legal aid society should develop and use a specialist for domestic difficulties; another specialist for landlord and tenant situations; and any others needed for any local problem.

THE NEED AND BENEFITS OF SPECIALIZATION

The need of specialization in legal work is readily apparent. The limitations of the human brain apply to the legal brain. Far better it is to be a master of one field, than a walking encyclopedia of errors in all fields.

Legal aid attorneys for years have done their best to advise all kinds of clients in all kinds of cases; and silently to themselves must have often said, "I just gave some advice on a new problem—I hope I'm right, but here comes the next client," and forever have forgotten the problem.

How much better the attorney feels, however, when he knows from specialization or experience that the advice is right. The lawyer who specializes invariably finds himself becoming more

confident of himself, more accurate and more useful.

But more important than self-confidence is the confidence of others in the specializing attorney. The social worker recognizes that the advice comes from one whose knowledge has been made accurate by much experience and actual practice. The client feels it subconsciously. The court or board before whom the specialist practices senses the advantages of specialization. They see the same attorney day after day. They know that he is devoting his time to the subject which is under consideration. Confidence in the expert is a natural result, if the attorney is at all worthy of the name of attorney.

In addition, the saving of time to the legal aid society, the client and the court is enormous. Instead of waiting around for hours or days on a single case, or rushing to far-separated courts, the expert, with his many similar cases before a single tribunal, suffers few delays and generally obtains better results.

SPECIALIZATION IN PRACTICE

In Boston four years of intensive specialization in workmen's compensation cases has proved its actual value.

Originally anyone of the twelve members of the staff, before whom appeared an injured employee, could conduct the trial.

The preparation of the case was difficult, for the attorney generally had another case in a different court for the same day, and but little time to look up the questions of law involved. And the theories of compensation law were so different from those of tort or common law.

Some members of the Industrial Accident Board, by their very make-up and experience, feel that attorneys are as necessary as an inflamed appendix. They were antagonized by the constant

influx of new legal aid attorneys, who came to be taught the law and not to help construe it. The board consequently urged that but one attorney, thereafter, appear before it, become acquainted with the procedure, and be the one responsible party to whom it could look.

As the legal aid attorney became familiar with compensation work, the board referred more and more cases to him. He prepared the cases, wrote briefs, had the clients examined by medical experts, and actually proved his cases. When cases were appealed from the board to the Superior Court, and then to the highest court, the legal aid lawyer was not only present but almost indispensable.

By a slow process, the legal aid specialist has developed an entire compensation department with an investigator, a staff of medical specialists, and assistants; and the number of cases has increased by leaps and bounds, in greater proportion than the bulk of legal aid cases.

The larger hospitals began to realize that there existed a definite department which not only could but actually did help injured employees. Their social service departments began to refer patients more regularly to the Boston Legal Aid Society. The overseers of the public welfare throughout the state did likewise; Family Welfare Societies, finding the husband out of work because of some alleged injury at work, hastened to the Society's compensation department for advice and service—and obtained it.

Specialization invariably leads to closer connections between social agencies and legal aid societies. Mutual confidence is encouraged; mutual benefit results.

It benefits the legal aid society as it reduces the time consumed per case and increases the volume of work per man.

And the client benefits mainly. By virtue of the best services possible under the circumstances, he is on an equal footing with the insurer who is always represented by compensation specialists. In Massachusetts, most of the sixty insurance companies have a special compensation department with trained medical examiners, investigators and attorneys. The Boston Legal Aid Society is the only agency in the entire state equipped to meet these trained forces with equally trained forces. In a single year, it represented over 300 employees before the Industrial Accident Board, and obtained orders for over a quarter of a million dollars in past, present and future payments, under the Act, for injured employees.

Insurance companies are in business for profit; and they naturally build up viewpoints intended to preserve their treasuries. They prefer to let the courts settle new questions and pay only when they are compelled to, in many instances. But the legal aid lawyer will go to the Supreme Court of the United States, if necessary, to enforce his client's rights. (See *Bountiful Brick Company v. Giles*, decided there February 20, 1928.) He goes often to the highest court of the Commonwealth to upset popular interpretations of the compensation law fostered by insurance companies, and intended to narrow the Act. It was the legal aid attorney who succeeded in extending the word injury to include hernia cases due to general heavy lifting, where no particular lift could be shown;² and who extended the Act to include local maritime torts;³ and made insurers live up to approved agreements.⁴

Another result of this specialization

² Mill's Case, 258 Mass. 475.

³ Toland's Case, 258 Mass. 470.

⁴ McCracken's Case, 251 Mass. 347.

is the better publicity that naturally follows good work. Editorials⁵ praising such legal aid work are always welcome. It tends to increase the field of contributors to support the cause.

And finally specialization provides a force to urge and support new and improved legislation.⁶ Changes in the Compensation Act, for the benefit of workmen, can be traced to the ardent support and work of legal aid attorneys.

DIFFICULTIES OF SPECIALIZATION

But specialization has its difficulties. The average legal aid attorney generally enters the society to obtain experience in the profession of law. He wants to learn a little of everything. An attorney must first have a general training before he attempts to specialize. And when he completes his apprenticeship, his financial situation is generally such that he cannot afford to specialize unless he is given a commensurate salary. And legal aid salaries have never been attractive *per se*.

The larger societies can manage to raise the necessary funds. A valuable staff member, by specializing and charging small fees to clients, can generally manage to earn for the society a large percentage of his salary. By charging fees from one to ten per cent in compensation cases, the Boston Legal Aid Society has made its compensation department self-supporting. This situation is perhaps unusual; but specialization of the proper kind will undoubtedly increase the benefits obtained for clients and in consequence thereof the fees paid to the society. And those societies which charge no fees, but have a definite income from a

⁵ Two editorials in the *Boston Evening Transcript* were based on the successful work of the compensation department—"A Human Hand at Law" and "A Widow's Day in Court."

⁶ See "Legal Aid Organizations, Lobbyists for the Poor," by Otto G. Wismer, *The Annals*, March, 1928.

fund, should develop the idea of specialization as far as their funds will permit.

A specialist will, of course, cost the legal aid society more in the way of salary; but the returns, in increased efficiency, popular approval, and results should easily justify the extra outlay.

And the smaller societies, deficient in funds, and lacking sufficient similar cases to permit of specialization, will necessarily follow the path of the general practitioner. But legal aid societies are constantly growing. The demands upon them are increasing. They must keep abreast of the times.

Their clients are deserving, not merely of legal assistance equivalent to that rendered by the private practitioner, but to still better service. Just as the better doctors consider it an

honor to be on the staff of a charitable hospital, so should the better attorneys feel the desire to be connected with legal aid work. Specialization is here the opening wedge.

And in Boston, partly because of specialization, it is not unusual for some of its leading attorneys⁷ to join forces with the legal aid specialist, and expound the cause of the earth's most neglected class—the poor.

⁷ William G. Thompson of the Boston bar was senior counsel in Toland's Case, 258 Mass. 470, appearing before the Board as well as before the Supreme Judicial Court.

Reginald Heber Smith and Raynor M. Gardiner, both of the Boston bar, have been constant and vital factors in the furtherance of legal aid specialization.

See "Growth of Legal Aid Work in the United States," *Bulletin of the United States Bureau of Labor Statistics* No. 398, at p. 35; and "Boston Plan of Legal Aid in Compensation Cases," *Bulletin* No. 456, pp. 25-33.

Crime Commissions as Aids in the Legal-Social Field

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and

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ONE of the results of the general dissatisfaction with the administration of criminal justice has been the organizing, during the last ten years, of more than fifty crime commissions. Most of these commissions have been organized by groups of private citizens; some—such as the New York Crime Commission and the Pennsylvania Crime Commission—have been created by legislative enactment; others have been initiated by public officials, examples of this being the Minnesota and the New Jersey Crime Commissions, each created by the respective state governors.

Whatever the origin, each commission has sought to alleviate the crime situation by studying the machinery of criminal law administration as it operates in the community for the purpose of discovering the facts concerning its practices, to see what changes might be made for its betterment.

TYPES OF COMMISSIONS

Crime commissions are of two general types: the surveillance type, and the survey type. The classification overlaps somewhat, but in general it may be said that the Chicago Crime Commission, the Cleveland Association for Criminal Justice, and the Baltimore Criminal Justice Commission are examples of the surveillance type. The Cleveland survey, sponsored by the Cleveland Foundation, the Missouri Association for Criminal Justice, and

the New York Crime Commission are examples of the survey type.

Then there is the National Crime Commission, organized in 1925, which serves as a clearing house of the information gathered by the state and local commissions. Its several committees carry on investigations of crime conditions, causes of crime and methods of treatment. On the basis of the information gathered, it makes recommendations for legislative reform. No small part of its work has been the calling of the National Conference on the Reduction of Crime to which the many commissions and bodies interested in the crime problem sent delegates.

AIMS OF SURVEILLANCE COMMISSIONS

The Chicago Crime Commission, the first to be organized, was established in 1919 by the Chicago Association of Commerce with the stated purposes "so broad as to include a general interest in crime and in the administration of criminal justice. The theory behind the Commission was coöperatoin with public officials. It assisted them whenever possible in the performance of their work, and occasionally suggested new methods of administration and organization. The significant part of its work, however, was a sort of surveillance over the processes of prosecuting felony cases in the courts."¹

¹ Moley, *Politics and Criminal Prosecution*, Minton, Balch & Co., New York, 1920, p. 232.

These surveillance commissions have been chiefly interested in making detection, arrest and punishment for crime more swift and certain. They have accepted, in the main, the existing principles of criminal justice and have sought methods of administering the law more effectively. They have recognized that modern criminals are more or less organized and that if crime is to be controlled, the public must exercise a sustained interest in the operations of criminal law. They have realized that "all our officials are subjected to pressure. Pressure is frequently very great in behalf of the person accused of crime. If that pressure should succeed in the case of any one agency, the consequence is favorable to the accused and final against society. It is important here to note that in many cases there is no corresponding pressure in behalf of society."² Thus these surveillance commissions aim to watch the activities of those public officials entrusted with the administration of criminal justice and bring to their attention and to the attention of the public, if necessary, any practice which they consider to be contrary to the best interests of society.

SURVEILLANCE DEVICES—CASE RECORDS

One of the most valuable surveillance devices has been the collecting of complete records of the criminal cases initiated in the courts of the community; for example, the Chicago Commission keeps complete records of all felony cases commenced in the courts of Cook County, from which it is able to discover at just what step in a given case the prosecution breaks down, and to fix responsibility for it. Thus, if the state's attorney enters a

nolle prosequi, or if a case is dismissed for want of prosecution, or if the accused charged with a felony is permitted to plead to a lesser offense, or if—after a plea or verdict of guilty—the judge issues a bench parole, the record in the crime commission's office shows this; and often it reveals the illegitimate use of such very necessary administrative procedures. Frequently, all that is necessary to check these practices, which very likely would otherwise go undetected, is to bring the matter to the attention of the responsible officials.

The Cleveland Association for Criminal Justice maintains a similar record. A report of that Association comments on this record as follows:

The commission of every major crime with salient facts pertaining thereto, every person accused or arrested charged therewith, and every step in each felony prosecution from the point of arrest to the ultimate conviction or acquittal and thence into the penitentiary or reformatory, has been permanently recorded coincident with the procedure, upon a carefully devised card system, together with the name of the judge or prosecutor assuming responsibility in each step of the procedure. It also discloses and permanently maintains the record of each judge, prosecutor, clerk, sheriff, or police officer for good and efficient service, or otherwise, in discharging his duty in each case of criminal prosecution.³

Furthermore, this card catalog of criminal cases puts into available form a whole mass of valuable material. From it "any person may obtain, in five minutes or less, exact information concerning any case at all. To secure the same information in any other way, one should have to visit the clerk of the criminal court, the state's attorney, the coroner, and the superintendent of police, and might easily be obliged to

² "Report of the Minnesota Crime Commission," *Minnesota Law Review*, Vol. 11, Supplement (1927), p. 17.

³ Cleveland Association for Criminal Justice, *Bulletin* 5, p. 4.

work more than a week to get what he wanted."⁴

CRIMINAL CASE-HISTORIES

In addition, some of the commissions gather the criminal case-histories of those accused of crime. This record is of inestimable value when leniency is requested, or when a convicted criminal seeks parole, probation or pardon. The criticism is often made that a prisoner profits in the disposal of his case because of pressure exerted upon prosecutor and judge even though his record is known to be bad, or because these officials believe that there is no previous criminal record. However, when these criminal case-histories exist, they can be of aid to the judge in determining the sentence, and, at any subsequent time, they can be of aid in considering a request for parole, probation or pardon. And the possibility of exposure to public criticism tends to prevent the unwarranted granting of leniency to an individual whose record is bad.

"EYES" OF THE PUBLIC

The sending of observers to the courts to watch the methods used in the trial of cases is another important phase of the work of the surveillance commission. These observers note the actual workings of the court, and endeavor to detect any irregularities in the trial or disposal of cases. They have been called the "eyes" of the community because they furnish contact between the public and the administration of criminal justice. In some instances it has been noted that the decorum of court rooms has improved as a result of such observations. And it is easy to understand that judges and prosecutors will be less likely to compromise cases or yield to pressure

exerted upon them from various sources if they know that these observers are present in the court room.

The activities of police forces have also come under the surveillance of these commissions. In some cases this has resulted in the detection of laxity, inefficiency, and irregularity in administration. Sometimes these investigations have shown the need for such improvements as larger police forces, higher salaries, more efficient equipment, the establishment of police schools; and the commissions have sought to educate the public in regard to these matters.

The activities of professional bondsmen have been observed; the Chicago Commission, for example, found that property of small value was being given for bail bonds amounting to many times the value of the property. It also found that the percentage of forfeited bonds collected was small in proportion to the total amount of bonds forfeited. The Commission established an investigating bail-bond bureau in the state's attorney's office and suggested a bail-bond division in the municipal court, which division has been created. Laxity in bail-bond administration appears to be quite universal, and where there are surveys and surveillance commissions to point out this fact, the interests of the public are better protected.

In like manner the habit of granting many continuances, which seems often to result in the miscarriage of justice, is watched by the surveillance commission, for it recognizes that long delays between arrest and trial diminish the chance of securing conviction. There are many circumstances which justify the granting of a continuance, such as illness of an important witness, the engagement of the attorney in another trial, or the need of more time to secure depositions. But where the

⁴Roberts, *Watchdogs of Crime*, Chicago Crime Commission Bulletin (1927), p. 6.

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commission observes a tendency toward the abuse of the continuance, it calls attention of that fact to the judge and the prosecutor, and, if necessary, to the public.

LINK BETWEEN PUBLIC AND OFFICIALS

One might say that these surveillance activities serve the purpose of keeping public officials on their good behavior. "They have undoubtedly served to increase the vigor of prosecution, to stimulate public officials to make more active efforts to secure convictions, and they have performed a certain type of public education in bringing to the attention of the public through reports and newspaper releases facts concerning crime and criminal justice."⁵ In the words of a report of the Cleveland Association, "The work of the Association through the comprehensiveness of its record system, embracing as it does, a watchful jurisdiction over the entire criminal situation and procedure, has at once and so intimately fitted into the actual operations of the various stages of criminal prosecution that it has, as a result, had the effect of operating as an immediate liaison between the different official departments and divisions having to do with the prosecution of crime; and results in daily communication from the office of the Association to the various prosecutors and officials by telephone, personally, and by written letter, calling attention to slips which, if not picked up, will constitute 'leakages' in the criminal procedure, which in turn would result in that degree of uncertainty in criminal prosecution upon which the hope of the professional criminal to escape punishment is based."⁶

⁵Moley, *Politics and Criminal Prosecution*, p. 233.

⁶Cleveland Association for Criminal Justice, *Bulletin* 5, p. 5.

SURVEY COMMISSIONS

The survey commissions are interested chiefly in making research studies or crime surveys rather than in taking active part in speeding up criminal justice or preventing certain practices of police, prosecutors or judges. In some instances, commissions formed primarily for surveillance purposes have, in addition, made research studies of the survey type, or have sponsored such surveys to obtain the facts.

In response to the need for facts, the lack of which has always hampered the study of crime problems, the Cleveland Foundation, in 1922, sponsored the first crime survey, which was a study of the administration of criminal justice in the city of Cleveland. Detailed examinations were made of the police administration, of the activities of the courts, judges and prosecutors, of penal and correctional treatment, of the relation of psychiatry and medicine to crime, of the bar and its training, and of the relation of the press to crime.

The Cleveland Survey was followed by the Missouri Crime Survey which was the first state-wide study of criminal law administration. This survey included, in part, studies of police systems, judicial administration, bail-bond methods, supreme court decisions relating to criminal cases, conduct of sheriffs' and coroners' offices, the pardon and parole system, activities of prosecutors; and it prepared valuable statistical interpretations of the criminal process which make very vivid the weak spots in the administrative system. Many other commissions, such as those of Georgia, Minnesota, Colorado, Indiana, Illinois and New York have since made research studies of a somewhat similar nature.

"Seen in retrospect, these 'surveys' of criminal justice have served chiefly

as means of providing material for public discussion of the entire problem of crime. In this respect, they have made their chief contribution in the field of enlightening public opinion, because for the most part the facts and conditions which they have shown have not been startling or unusual. A second value has been their scientific character. They have provided for serious students of criminal law administration a body of information which it is possible to use in comparative studies, and thus to remove from the discussion of crime and its treatment some of the prejudices with which it is so full."⁷

STUDY "LAW IN ACTION"

The findings presented by these survey studies have done much in pointing out the differences between legal theory and legal practice in the field of criminal law. The directors of these studies "have sought to recognize a fact, just beginning to meet its deserved recognition in legal research,—that what is most needed is not merely a study of laws but of laws in operation, not merely rules of procedure but the manner in which these rules are used in the actual trial of cases;"⁸ and there is being collected a quantity of accurate data which furnishes a clear picture of American criminal law in action.

Such studies are of value in eliminating many loopholes through which criminals escape from the law, and they indicate in what respects the machinery of criminal law administration is out of touch with the needs of the people. The Missouri Survey found, for example, that of every 100 criminals who commit felonies in Missouri, only about twenty are arrested. More than 10,000 felony cases were scrutinized and statistical tables were pre-

pared showing just what disposal was made of the cases. These "mortality tables" demonstrate, among other things, that the jury plays a very small part in the disposal of criminal cases—out of each 100 cases in which warrants were issued in the state, only twelve faced jury trial.⁹ Its analysis of sheriffs' offices shows how inadequate they are for the giving of police protection to the rural communities. Evidence of the influence of politics in police administration is shown, as well as the great power of the prosecutor in eliminating criminal prosecutions by such methods as the refusal to issue a warrant, or failure to present the case to the grand jury, or entering a *nolle prosequi*, or compromising cases by agreeing to a plea of guilty to a lesser offense. After accumulating the factual data, the directors of these surveys have published their findings together with interpretations and recommendations, many of which have resulted in legislative enactment.

CRIME A LEGAL-SOCIAL PROBLEM

There is another phase of the work of these survey commissions which is receiving more and more attention and which is of particular interest to the worker in the legal-social field. This is the inquiry into the causes and effects of crime and the methods for its prevention, which discloses not only the weaknesses in the existing agencies of criminal law administration, but brings into question some of the vital principles of the criminal law itself, and strengthens the view that there is a need for more individualization in the treatment of criminals.

Although there is a growing recognition of this need, still to a great extent, modern criminal law seeks to apply the

⁷ Moley, *Politics and Criminal Prosecution*, p. 234.

⁸ *Missouri Crime Survey* (MacMillan), p. 3.

⁹ For a detailed discussion of this problem, see Moley, "The Vanishing Jury," 2 *S. Cal. Law Review*, Dec. 1928.

same therapy to all offenders; that is, punishment, on the theory that punishment proportioned to the crime is a deterrent and a reformatory measure. However, this principle rests upon a postulate of psychological equality, and ignores the psychology of individual differences.

The Sub-Commission on Causes and Effects of Crime of the New York Commission has made several studies of groups of individual offenders, and one study of the environmental factors in juvenile delinquency.¹⁰ A detailed case-history of each offender was taken, and, in reading these, one is impressed with the individual differences existing among offenders, differences in intelligence, emotional reactions, physiological make-up—such as glandular systems—and in environmental conditioning. Such studies lend emphasis to the belief that all behavior, social and anti-social (and one is as difficult to explain psychologically as the other), is the result of environmental forces acting upon the inherited structure, and this negatives the validity of any concept of equal responsibility which the criminal law assumes to a great extent.

Then, too, the large number of recidivists found in prisons raises doubts as to the effectiveness and value of punishment as a deterrent or reformatory measure. Upon the basis of the evidence collected in the Missouri Survey, about 66 per cent of those sentenced to correctional institutions and about 50 per cent of those passing through the

police courts were found to be recidivists. Similar conditions are described in the New York report, and such evidence tends to show that the general use of punishment is not effective in accomplishing the prevention of crime. However, "no one can truthfully say that punishment does not have some deterrent effect, but unless the nature of the offender is understood and the punishment meted out in accordance with his own peculiar requirements, little, if anything, will be accomplished in the way of social or individual good."¹¹

Furthermore, the large number of epileptics, feeble-minded, insane, and psychopathic personalities found in prisons reveals the fact that many criminals are mentally and sometimes physically in need of individualized care, rather than punishment—much of which is rationalized retribution.

This aspect of the work of crime commissions demonstrates that the administration of criminal justice is not a task alone for the police, lawyer and judge, but requires the assistance of the psychiatrist, psychologist, physician, criminologist, sociologist and social worker, as well as the active interest of the general public. As a result of such studies, the lawyer and the social scientist are better able to understand each other's views, and to work together coöperatively in bringing about the best solution of the problem of crime prevention.

¹⁰ See New York State Crime Commission's reports of 1927 and 1928.

¹¹ Hoag and Williams, *Crime, Abnormal Minds and the Law*, Bobbs-Merrill, Indianapolis, p. 203.

The Old Justice and the New Order

By GEORGE W. KIRCHWEY

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THE social worker enters the temple of justice by a side door, old and battered, over which is inscribed the word *Mercy*. Many have beaten on the door in vain; many more have passed in through the door with trembling steps. The door swings open for the social worker, who enters with a confident stride and with a smile and a shrug of the shoulders for the legend. "Mercy," indeed! What offended deity or majesty is this that dispenses justice with one hand and bestows mercy, when so disposed, with the other. Can there be justice without mercy? Shall there be mercy without justice? The trouble is that the social worker of today is a full-blown utilitarian and has little use for the sentimentalities of the criminal law. He has no fine-spun theories as to the necessity for retributive punishment to vindicate the moral law or to equilibrate the scales of human justice. He looks upon Judge X of the Court of General Sessions or upon Judge Y of the Court of Oyer and Terminer, not as a vicegerent of divine justice but as a very human and somewhat muddled instrumentality to aid in the smooth operation of the social machinery—a passionless occupation, calling neither for indignation nor pity, but only for a sound knowledge of the machine and its workings. Conceiving society as a coöperative enterprise highly integrated and interdependent, he believes that its interests are best served by the restoration of an offending member, whenever possible, to a state of willing participation in the common life.

Whatever our penal philosophy may be, our practice today represents a

compromise between the two schools of thought above pictured, which I have ventured to describe as the sentimental and the utilitarian, respectively, with a third factor, humanitarian sentiment, playing an increasing but uncertain and fluctuating rôle. What stands out as a marked tendency, in Western Europe as well as in our own country, is a disposition to recognize the offender as an individual personality, rather than a type, to be dealt with. To an increasing degree the object sought to be attained is what criminologists describe as the "individualization of punishment." Obviously this might represent nothing more than an attempt to give scientific precision to the old and familiar practice of mercy as exercised—casually, capriciously, sentimentally and often unjustly—by the jury or by the court. But even this would mark an advance. Even mercy should be administered in the public interest, with full knowledge of the offender claiming it. But the principle is a pregnant one. The process of weighing the merits and demerits of the individual offender furnishes precisely the objective material required to determine his place in the social pattern, and this prepares the way for the next stage in criminal justice, when the social worker's aim of *treatment* will be the dominating factor.

BEGINNINGS—THE PRISON

The social worker was tardy in realizing his opportunity, still more his responsibility, with respect to society's dealings with the offender. This was doubtless due, in part, to his humble beginnings as an untrained purveyor

of relief to those in distress, but probably even more to his sense of aloofness from a field over which the law claimed and exercised complete control. Like God, the law worked in a mysterious way its wonders to perform. This was before modern science had begun to throw light on the ways of God and the law. The social worker was a man of religion and heard the accusing words, "I was in prison and ye visited me not!" So he gave heed to the higher law and in the prison saw the human wreckage which the earthly law had left in its train. With others like himself he organized a Society for Alleviating the Miseries of Publick Prisons, with the legal right of visitation for the members of the Society and its agents, and with the further aim of helping discharged prisoners to get and keep their footing in the precarious ways of the outside world.

There is no record to show how far these efforts at personal regeneration succeeded, but they certainly had the effect of convincing the inspired workers that the prison, as it then was, was not an agency of physical and moral improvement. So the Society set itself to the task of reforming the prison system of its state and, within a few years, was able to give to the world the famous "Pennsylvania System" of solitary confinement. At the same time the Boston Prison Society and, a generation later, the Prison Association of New York, while not neglecting their primary purpose of relieving the distress of prisoners and ex-prisoners, became the most influential agencies of prison reform in the nineteenth century. Some of these reforms involved profound changes in substantive penal law, as in the institution of the indeterminate sentence, first, for youthful and, later, for older offenders. These prison workers served a noble humanitarian tradition

in which they recognized the leadership of Rousseau and Voltaire in France, of Beccaria in Italy and of John Howard, Sir Samuel Romilly and Jeremy Bentham in England and, under the inspiration of the Quakers of West Jersey and Pennsylvania, substituted a far milder system of punishments for that originally imposed in the colonies by the mother country.

The distinctive prison reform movement of the century culminated in the organization, in 1870, of the American Prison Association under the leadership of such men as Dr. E. C. Wines, F. B. Sanborn and Z. R. Brockway, and in the institution, in the following year and under the same auspices, of the International Prison Congress. It must be confessed that while the effort to improve the prison goes on without interruption, it has thus far accomplished little to realize the expectations of the social worker. While the physical cruelties practiced in the name of discipline have largely disappeared, the prison has nowhere become a school for training in citizenship or for reformation of character. Neither religion nor social work has made any impression on it.

CORRECTIONAL INSTITUTIONS

But the hand of the social worker is clearly apparent in the progressive disintegration of the prison system which the last hundred years have witnessed. At the dawn of the nineteenth century, men and women, boys and girls, often of tender age, were herded together indiscriminately in the common jails and prisons. Today there is some attempt at segregation of the sexes even in the county jails, while for juvenile offenders there are, in many of our cities, separate detention homes, and in every state and in the District of Columbia one or more correctional institutions, known variously as "houses

of refuge," "state homes" or "schools" for boys and for girls committed for offenses occurring up to the age of sixteen years. While these institutions have in many instances been little more than prisons for children, they have at least in large part been free from the stigma of the adult prison and they have in many other instances, especially since the dawn of the present century, tended to become, in fact as well as in name, schools and homes for their unfortunate charges.

A further development of the same type was the creation of the reformatory for youthful first offenders between the ages of sixteen and twenty-five or thirty, beginning with the Elmira Reformatory in the State of New York in 1876. Today eighteen states have such reformatories for men, and twelve states have separate institutions of the same description for women, though in none of the former and in only a few of the latter have the spirit and the methods of social work come to dominate the administration. But these have at least demonstrated that there is no inherent incompatibility between the "correctional institution" and a truly correctional policy.

Another long step in the process of differentiated treatment of the prisoner, due to the social worker as psychologist and psychiatrist, is to be observed in the gradual elimination of the mentally disordered and defective elements of the prison population and their segregation for treatment and training in separate institutions under medical care. New York, for example, in its Classification Clinic at Sing Sing Prison, is providing for the thorough mental examination of all prisoners received and for the transfer of its insane, psychopathic and defective cases to its state hospitals for the insane and other appropriate institutions. Less systematically and sometimes in a

most casual manner the same process is going on in many of the other states. We may safely anticipate that in the course of another generation the prison everywhere will be relieved of all of these incongruous and unassimilable elements of the community. As these constitute, probably, not less than one-third of the ordinary prison population and possibly all of the disturbing and dangerous element, it is possible to hope that the prison of tomorrow may find place for the spirit and the methods of social work.

PAROLE

When the prisoner has by good conduct in prison won his freedom he stands at the crisis of his fate. Will he make good in the hostile world to which he returns, or will he join the doleful brotherhood of crooks and outlaws who have come out before him? It is so much to his interest, so much to the interest of society that he should make a wise choice—the wrong choice would be so tragical from every point of view—that we confidently look for the good samaritan at the gate to take him in charge and lead him to safety. But nothing of the sort happens. Sink or swim, survive or perish—it is up to him. It is true he is, somewhat casually and perfunctorily "supervised"—by mail—by the parole officer of the prison, and it is also true that, if he looks up the good samaritan in the city, he may be helped to a job of sorts and furnished with a meal-ticket or a few dollars and a bed. It is only fair to say that in most if not all of our larger cities there are still prisoners' aid societies that, with painfully restricted resources and with genuine sympathy, do all that they can to tide over the period of anxiety and distress, and there are, of course, cases in which the ex-prisoner has a home to return to; but it is doing the social worker no injustice to say

that the job which he so blithely undertook a century or more ago is still most inadequately performed. The bruised reed is still left to be broken.

Parole and after-care are properly functions of the state. To a greater or less extent the state, not being equipped for the latter function, evades the responsibility by paroling certain cases to religious and other private agencies or individuals. In only a few states has a serious attempt been made, through a staff of trained parole officers, to make a complete job of parole and after-care.

PROBATION

The function of probation is identical with that of parole—to give the convicted offender another chance and to aid him in the effort to make good in the community whose standards of behavior he has violated—with this important difference, that probation is offered as a means of grace to escape a prison sentence, the imposition or execution of which is suspended by the court. It is not necessary here to go into the controverted question whether the courts were empowered at common law to suspend sentence in their discretion, though the power was sometimes exercised in fact. It is now, to a greater or less degree, a recognized function of the criminal courts in every civilized country. The practice arose spontaneously in cases of juvenile delinquency where the judges, instead of imposing sentence on a youthful offender, would commit him to the care of a benevolent man or woman or of a charitable agency willing to assume the responsibility. The court was moved by sympathy. The transaction was philanthropic, maternal and casual; but in another generation the practice had become systematic, a matter of public policy. This is the stage referred to in the first section of this paper, when the social worker is called

upon to put his knowledge of social conditions and his diagnostic skill at the service of the court. The quality of judicial mercy is hereafter to be strained through the body of knowledge put before the court. But this is not all. The social worker is also social physician, prescribing the treatment to be adopted and then, as probation officer, carrying the treatment into effect.

There can be no doubt that in the institution of probation modern society has made a momentous contribution to the administration of justice, revolutionary in its effects. But it has as yet been only partially accepted and is still being awkwardly performed. In only half a dozen states and in the judicial system of the Federal Government has probation been made coextensive with the judicial power of imposing punishment and, even in those jurisdictions, it is, like the judicial power itself, to a considerable degree vitiated by the political control of appointments. In the perfection of this system, social work has an opportunity for social service which may be said to transcend in importance any other task which has yet presented itself in the field of delinquency—with the possible exception of preventive work with children and adolescents.

SOCIALIZED COURTS

Not the least—it may yet prove to have been the greatest—of probation's gifts to the administration of justice is the so-called socialized court, of which the juvenile court is the shining exemplar. The earliest children's court was nothing more than a separate session of the criminal court, where children might be tried apart from adult offenders. But the atmosphere of such a room must from the first have been less oppressive and the procedure less formal than in the common crimi-

nal court room, with probation more and more taking the place of a sentence to the House of Refuge or the Reform School. With a judge who was himself an incarnation of the social spirit, such a court might be expected to go far in substituting the methods of social work for those of criminal justice. But the simple objectives of the criminal law and its complex procedure renders this a matter of immense difficulty. To make the transformation complete another law with a different procedure must be employed. This was found in the protective jurisdiction of the chancery courts which was boldly adopted in the Illinois Juvenile Court Law of 1899, under which the judge represents not the justice but the paternal power of the state. As the juvenile court is fully treated elsewhere in this volume, nothing more need be said here but that several other states have followed the lead of Illinois in giving to the delinquent child the protection of this paternal power, but that most juvenile courts in this and other countries are still what may be described as half-socialized criminal courts.

It is as a promise for the future rather than a social achievement that we may here refer to the specialized courts developed in several of our larger cities under the names of Women's or Morals Courts, Domestic Relations or Family Courts and the Boys' or Adolescent's Court of Chicago. These are still in effect, as in name, criminal courts, with a greater or less tendency to a social rather than a punitive treatment of the offender. With a few conspicuous exceptions they are all branches of the local inferior criminal courts, without a permanent judicial staff and with an inadequate probation service. But there is a distinct movement afoot to give these courts an independent status, to enlarge their jurisdiction and to in-

vest them with the protective powers which characterize the best juvenile courts. The implications of such a transformation dazzle the imagination. May it not be that in another century the state will have become the father of all its erring children?

THE POLICE

Of all the agencies of criminal justice, the police system is likely to prove the most obdurate in its resistance to the influences of social work. But even here a beginning has been made. There have been and there now are police chiefs who deem their protective function, in the social worker's sense of the term, not less important than their more militant activities. This social attitude has opened the way for the police-woman who, at her best, may be described as a social worker armed with authority. In the police departments of the national capital and of the city of Detroit the policewoman is recognized as an integral and indispensable part of the organization, and we may confidently look forward to a wide extension of her influence and power in the near future.

SOCIAL SCIENCE AND THE LAW

We are still in the first quarter-century of a serious effort to understand the problem of delinquency and to estimate the place of the law in the social effort to deal with it. The dazzling achievements of physical science in recent years have discredited the traditional assumptions and the hit-or-miss methods which have heretofore satisfied us in the field of the social sciences. We have set ourselves to *know*, as the result of painstaking inquiry, what it is, in the social milieu or in the personality of the individual, that makes for delinquency and to measure the efficacy of our methods of dealing with the evil. The social worker has not chosen this

task. It has chosen him. He alone knows the delinquent and he alone knows the social milieu, and, given the scientific spirit, it was inevitable that he should make this his aim. The results of this effort are coming in at an increasing rate. Everywhere we are hearing of "surveys of criminal justice," directed for the most part by eminent members of the legal profession, but with social workers gathering the really significant data of causation and consequences. More and more do the programs of state and national confer-

ences of social work deal with material so gathered.

The law is slow to respond to changes in public opinion; wisely so, perhaps. Too often what goes by that name is a transient wave of sentiment without any solid basis in the experience of the community. But facts are stubborn things, and we cannot doubt that a public opinion based on ascertained and verified data as to the making and the treatment of the delinquent will, in the long run, make over the criminal law in its own image.

The Juvenile Court at the Bar

A NATIONAL CHALLENGE

By J. PRENTICE MURPHY

Executive Secretary, Children's Bureau of Philadelphia

GREAT liberties have been taken in the presentation of this subject. Long and careful examination of the work of the juvenile court and its allied interests reveals the extent to which the juvenile court movement has not developed and protected standards of legal justice. There is need of a presentation of the negative aspects of juvenile court work and legislation so that a generation hence other writers may give a picture of general and positive achievements in this field such as cannot be written about today. The juvenile court as an expression of a new concept of judicial procedure got off to a very bad start in many communities and states.

In view of its importance; the amount of attention it has had; its almost autocratic powers; its general immunity at the present time from all but a very restricted professional criticism; the amazing ignorance of the press and the general public as to its activities, and the tendency of people generally to look upon it as a sacrosanct movement, there is need for a revealing of its weaknesses and inherent limitations, as well as to its possibilities where the right conditions exist. The vast amount of superficial patter about the juvenile court movement must be offset by a thorough knowledge, based on a real understanding of all the values which are involved. It is very strange that our various crime commissions have failed to note the close relationships existing between many juvenile courts and the number of juvenile delinquencies in them.

JUVENILE COURT MOVEMENT

The juvenile court movement has not brought general legal protection to children, although the common concept is that it has few defects and is deserving of high praise. Dexter sees it without defects; it is something "of which America may well be proud" (1).

Hayes agrees with him as follows:

Most of the recommendations . . . discussed for individualizing the treatment of accused persons have been adopted in a large part of the United States in the treatment of juvenile delinquents (2).

The papers and addresses given at the celebration of the 25th anniversary of the Chicago Juvenile Court (1925) are excellent, but few of them touch upon the reverse side of the picture—a picture which has been well scratched since the first artists began to dream of a new kind of court for children.

We often see the statement made that juvenile courts or courts having juvenile sessions are chancery courts separate and distinct from the spirit and practice of the criminal courts. With certain exceptions, this is an observation at absolute variance with the facts. A national authority in the study and prevention of delinquency—Dean Kirchwey—gives his opinion:

But, you say, there are the juvenile courts. Surely they represent progress. I would be the last to minimize the promise that lies in the coming of the juvenile court, especially where its procedure is based on the support and principles of equity juris-

diction. But how many of these courts are anything other than criminal courts in which the ordinary punitive justice is, at the whim or the pleasure of the presiding judge, tempered with mercy? In how many of them is the presiding judge the wise and understanding father rather than the stern, if not vengeful, agent of outraged law? (3).

Those who know most about juvenile court procedure, having had long experience in juvenile court work, are heartily in accord with the point of view expressed by Judge Waite, who may be cited as one of the four or five best friends the juvenile court has had. No one has ever accused him of overstatement or misstatement. His whole career is an honor to the bar.

I have said "so-called juvenile courts" advisedly. I do not reflect upon those communities where the legislature has not made the radical change from the criminal to the non-criminal type of court in dealing with delinquent children, but has not the time come to reform our terminology in the interest of clear thinking? The court which must direct its procedure, even apparently, to doing something to a child because of what he *has done* is parted from the court which is avowedly concerned with doing something for a child because of what he *is* and *needs* by a gulf too wide to be bridged by any humanity which the judge may introduce into his hearings or by the habitual use of corrective rather than punitive methods after conviction. I suspect that the theory of the juvenile court which stresses the moving forward of the common law age of criminal responsibility involves some bad psychology and is responsible for some bad law. Has not the time arrived when no tribunal should claim the title of juvenile court, implying in its origin and major application a jurisdiction and procedure founded wholly on the parental idea, without distinction in aim and essential method between delinquent, dependent and neglected wards of the state, unless this is its real character? Let other courts be styled what they are—police or criminal courts for children (4).

Not less critical or more troubled in his point of view is Judge Boyd, of Virginia, who, in 1928, made this observation:

Less than any other department of human activity has the law responded to the point of view and the method of modern science. The thought category of cause and effect . . . has been almost wholly neglected by that branch of our judicial science devoted to crime and criminals.

Since their origin the juvenile court laws have practically run the gamut of objections on constitutional grounds, such as, . . . violation of right of trial by jury, . . . denial of due process of law; their infringement of the . . . right of a parent to the custody and society of his child . . . it will be noted that almost every appellate court—not to mention many courts of *nisi prius* jurisdiction which have been called upon to review . . . has upheld it on constitutional and other grounds. It may be counted as unfortunate . . . that relatively few cases coming before juvenile courts have found their way to courts of last resort, for the result of this is a wide contrariety in the application of the law by local juvenile court judges, many of whom, either through lack of training or even more serious deficiencies utterly fail to grasp the underlying philosophy of the law they attempt to administer (5).

Carstens, another authority who has an unusual knowledge of child welfare conditions throughout the whole United States, says:

The juvenile court has suffered in the house of its friends. They have too often been satisfied with only part of the necessary equipment and have stupidly vaunted themselves in the thought that they had a juvenile court but the name has no virtue in it unless it is attached to an institution of substance. It is for this reason that the juvenile court is still on the defensive in many communities—for it is making bricks without straw (6).

W. I. Thomas and D. S. Thomas, after very careful study of the out-

standing movements in the child welfare field in America, say this of the juvenile court:

But the juvenile court system is not strongly developed except in large cities, and while great numbers of successes can be cited from the records a large comparison indicates that the system as a whole is not successful as a means of preventing or treating delinquency (7).

Miss Emma O. Lundberg, whose experience and fairness cannot be equalled, said the following in 1921:

Although every state but two has legislation authorizing the establishment of special juvenile courts or juvenile sessions, the juvenile court movement is still in a relatively primitive stage. . . . Its extension into rural communities and small towns is largely a question for the future. . . . In half the states less than one-fourth of the population were within reach of courts with these special facilities. Several of them reported no special equipment in any court. . . . In one large court—and it is one of the most respected—we are frankly told: "Our staff can hardly make a beginning in probation work, they have so many other duties" (8).

The conditions herein described have remained essentially unchanged.

During the early days of the juvenile court movement, one of the most thoughtful and prophetic criticisms of the movement was made by Hon. Edward Lindsey, then a County Judge in Pennsylvania. He said:

Many of the provisions of the Juvenile Court Act are clearly in conflict with constitutional provisions and this conclusion can only be escaped by evasions. In the case of commitment to an institution there is often a very real deprivation of liberty nor is that fact changed by refusing to call it punishment or because the good of the child is stated to be the object. The only logical theory for their complete justification is the extreme socialistic theory of the functions of the state. But this is only a

verbal justification at most for in spite of sonorous language as to saving the child and assuring it protection, care and training by the State, there has been scant provision for making good any of these so far as the State is concerned. What usually happens is that the child is handed over to some organization or institution (sometimes partly subsidized with State money, it is true) which in some cases does its work well and in others badly.

Perhaps it may be premature to regard the constitutional questions as settled. No doubt the courts have been right in refusing to declare these acts unconstitutional in their entirety and not all the features are discussed in the decisions. The questions presented in most of the cases have been predicated upon parental rights and these have been presented as though they were purely private rights. It is strange that the public nature of the rights involved has been so little recognized. It is also true that in the majority of the cases involved the parties are unable through poverty or ignorance or both to make a contest. . . . As a matter of fact, however, it is not applied to the dominant social class and if ever it is applied it will undoubtedly be largely modified. . . . The vague and unlimited nature of the powers granted to the court will seem to call for some further definition and specification (9).

The point which he herein makes that the juvenile court is essentially a court for other than the dominant social class is something which we must keep in mind in connection with the need of socialized law in the juvenile court field.

NEED FOR SOCIALIZED LAW

In 1899, a committee of the Chicago Bar Association, advocating the creation of the juvenile court, among other things said

that the child who breaks a law is not a lawbreaker; that a crime is not a crime when committed by a juvenile, and that so far as children are concerned things are not at all what they seem.

This is a point of view which from the practical standpoint is utterly ignored in the majority of juvenile courts and in no wise affects the treatment of that great number of children coming under the power of the law and whose cases are handled outside of juvenile courts. We forget the extent to which non-juvenile courts, also magistrates, justices of the peace, and other minor and untrained court officials, as well as the police, act in accordance with many evil concepts as to the nature of the offence and the responsibility of the child who has committed it.

Smith, in his historic report, says:

The administration of American justice is not impartial; . . . the rich and the poor do not stand on an equality before the law. The denial of this protection means . . . a taking away of children from their parents by fraudulent guardianship proceedings. The effects of this denial are far-reaching (10).

Bossard buttresses this point of view as follows:

To be poor is to be relatively helpless. . . . One of the outstanding handicaps of inadequate income is the denial of justice (11).

When one contemplates the tens of thousands of parents and children affected by courts which are called juvenile courts, realizing that these people essentially come from the lower wage groups; include so many of those who have only recently arrived in our country; who are the most ignorant; who receive the lowest wages; who are close to the firing line of poverty, it becomes clear that the only ultimate protection which they have must radiate from the Judge, and according to Justice Cardozo:

There is no guarantee of justice except the personality of the Judge.

We realize further how serious the issues have become when Gillin says:

Since five-sixths of the courts in the United States do not come up to the minimum standards of the United States Children's Bureau . . . it is evident that most of our juvenile courts are such in name only (12).

The seriousness of the problems laid upon the shoulders of the Juvenile Court Judge and the necessity for seeing to it that the responsibilities which are his are discharged in accordance with justice and reason, are borne out in the point of view expressed by Judge Waite, as follows:

No judge on any bench has need to be more thoroughly grounded in the principles of evidence and more constantly mindful of them than the judge of a juvenile court. The boy against whom it is proposed to make an official record of misconduct involving possible curtailment of his freedom at the behest of strangers, has a right to be found delinquent only according to law. The father, however unworthy, who faces a judicial proceeding the event of which may be to say to him, "This child of your loins is henceforth not your child, the state takes him from you as finally as though by the hand of death" . . . that father may rightfully demand that the tie of blood shall be cut only by the sword of constitutional justice. Surely, those substantial rules of evidence which would protect the boy if the State called its interference "punishment" instead of "protection," and would safeguard the father in the possession of his dog, should apply to issues which may involve the right of the boy to liberty within the family relationship and the right of the father to his child. *The greater the conceded discretion of the judge, the freer he is from the vigilance of lawyers, the less likely is he to have his mistakes corrected on appeal,* so much the more careful should he be to base every judicial conclusion on evidence proper to be received in any court of justice. Otherwise the State's parental power which he embodies is prostituted, the interpreter of the law degenerates into the oriental kadi and the juvenile court falls into suspicion and disrepute (13).

His fear as to the resulting consequences where the juvenile court procedure is not followed or loose, is clearly revealed as follows:

One often sees departure from those traditional safeguards of the individual which are familiar in Anglo-Saxon jurisprudence explained and justified by the parental attitude of the juvenile court. Some looseness prevails in this regard, even in the opinions of appellate courts. It should not be forgotten that the performance of judicial functions always involves two processes: the first, to determine whether jurisdiction assumed for the purpose of an inquiry should be retained for the application of a remedy; and second, application of the remedy. The first seeks the facts; the second applies the law to the facts as ascertained. Is it not obvious that the rights of the individual who holds the state at arm's length and says "the matters charged are false; government has no right to interfere with me" should be more strictly regarded during the first process than the second, when his status as a person with whom public interference is warranted has been established? Otherwise all that is necessary to justify a despotism is to make sure that it intends to be benevolent (14).

We must not forget that these considerations so clearly pictured by Judge Waite are unknown to the bar as a whole.

Judge Edward Lindsey buttresses Judge Waite's point with one of equal importance, although to many lawyers it will not receive equal acceptance.

The child who comes into court accused of crime inevitably stands on a different footing from one who is there merely from parental neglect or from incorrigibility and should. . . . Every child accused of crime should be tried and be subject to neither punishment nor restraint of liberty unless convicted. No child should be restrained simply because he has been accused of crime, whether he is guilty or not. Of course, if there is no denial of the charge, there is no necessity for a

trial. . . . There need be no punishment (i.e., even though the charges are proven to be true) (15).

Our habit of idealizing in regard to the juvenile court has had very serious consequences. Abuses have developed and been multiplied without the communities in which they have taken place exerting corrective checks. The tendency has been to follow the pattern of the Illinois Juvenile Court Law to include, not only cases and problems affecting conduct and personality, but also situations where the one and sole difficulty is the poverty of the children appearing before the court. Many juvenile courts administer mothers' pensions. All but a few juvenile courts are the chief agencies in their communities for the handling of cases involving dependency in children. These last two types of social need should properly be outside the jurisdiction of the juvenile court, since, in spite of our fine reasoning, the juvenile courts generally operate as subdivisions of criminal courts.

In Pennsylvania the juvenile courts are part of the Courts of Quarter Sessions of the Peace. Generally throughout the United States the juvenile court is simply a name given to a special session of the court, presided over by a county judge, who the next day may sit as a probate judge, and the next week sit in a murder trial. The same court officials serve throughout these various relationships of the court. In many communities probation officers have charge of not only children, but adults as well.

It is important to remember that the first juvenile court law did not usher in as complete a change in judicial attitudes toward the youthful offender as some of the very enthusiastic advocates were prone to declare to be the case. Years ago Judge Baker very wisely said:

Probation in the sense of refraining from the commitment of first offenders has long been generally availed of in all our Massachusetts courts in juvenile cases. The former court was always disposed to be merciful in the matter of commitments (16).

The same could be said of other states.

Judge Waite says on the same point:

The basic ideas of the juvenile court are not new. They are as old as chancery. The new things that happened in Chicago in 1899 were the working out of these ideas to their logical conclusions as legal concepts and the creation of an agency to make them effective, that is, an organized and socialized piece of judicial machinery (17).

For example: The Illinois Juvenile Court Law created no new or special court. Jeter, in the study of the Chicago Juvenile Court, says:

The law in all portions of the state except Cook County, conferred jurisdiction in cases arising under the law upon Circuit and County Courts. In Cook County, which constitutes an entire and single judicial circuit, original and exclusive jurisdiction was conferred upon the Circuit Court alone. The juvenile court sitting in Chicago is thus technically the juvenile court of Cook County and is the division or branch of the Circuit Court of the County. As such its territorial jurisdiction covers besides the City of Chicago a considerable outlying territory that is both urban and rural in character. In this outlying district are five incorporated cities from 2,000 to nearly 25,000 in population, and about 70 villages of from a few hundred to 19,000 population. The suburban district covers an area of about 733 square miles. From the point of view of administration such territorial jurisdiction presents many difficult problems (18).

PROBLEMS

The concentration of so much work in one court created problems that would not have resulted under a more decentralized system such as holds in Boston for example. The great saving

element in the Cook County Court has been the high character, integrity and sympathetic understanding of its juvenile court judges; yet notwithstanding all that they have done, it was possible to have the following said about conditions in the county ten years ago:

During the past year there have been a number of cases in which, following the filing of a petition in the juvenile court and while the case was still pending, an indictment has been voted by the Grand Jury, followed by a hearing in the criminal court. . . . After weeks and months of delay, during which time the child was held in the county jail, the criminal court has in each of the cases either referred the case to the juvenile court for disposition or has entered an order placing the child under probation to the adult probation department. The probation orders could have been arrived at with quite as much force and by a much simpler process under the juvenile court law.

The attitude of State's attorneys in the past has usually been that juvenile court action in cases in which crimes were committed had been only through the suffrance of the State's attorney; that in any cases which he chooses to characterize as "serious" he might take action in the criminal court (19).

This condition largely true up to the present is a picture of what is happening now in many other communities in the United States. It is the prevailing opinion amongst social workers in Philadelphia that the heavy load of work now being carried by the court is one of the large factors in preventing it from doing better work. For a number of years and until a recent date, many of the practices of the Philadelphia Court fell far below the standards set by the United States Children's Bureau. Judge Hoffman gives these pictures:

. . . 77 children were fined, to 55 of whom, being unable to pay, the fine meant

imprisonment in the county jail. . . . All this occurred in a state in which it is plainly written in the juvenile court laws that no child under 14 years shall be imprisoned in a jail or "any place where he can come in contact with criminal adults." The penalty for the violation of this provision is \$100, but there is no one to defend the child and he is lost and forgotten (20).

A survey of conditions in other states would reveal that the treatment of children differs from this in degree only. It cannot be said that the improved legal status of children has resulted in benefitting in great measure the delinquent child. So long as the juvenile court laws of practically all the states are ignored, conditions such as I have described will persist (20).

With few, if any, exceptions, in every state children of juvenile court age, sometimes numbering into the hundreds, are found in such penal institutions as the reformatory and penitentiary. The industrial schools, often semi-penal institutions both in conception and management are filled even now to overflowing; and for want of detention homes in hundreds of jurisdictions children when arrested are placed in jail until the hearing. What has the advanced legal status accomplished for children thus situated? Is it not clear that the juvenile courts are not functioning? (21).

Judge Boyd, quoted above, gives his point of view on this phase of the problem:

Unfortunately, however, the vast majority of these courts (juvenile in 46 of the states) exist on paper only. All too often . . . the office of judge has been filled by some amiable lady or gentleman of the training and mental caliber of the average justice of the peace . . . who, through lack of court facilities or in the absence of any conception of the real meaning and purpose of the court, neglects the more important and difficult social phases of his official duties. . . . A statement of the number of juvenile courts now in existence in this country, therefore, is exceedingly deceptive.

It is in the rural communities that the

extension of the juvenile court system encounters the greatest obstacles.

In Kentucky, Georgia, Texas, and several other states, the right of trial by jury is carefully preserved. In Virginia . . . the juvenile court is inferior to the first courts of record, and an appeal . . . brings the case up *de novo* before the regular trial court of general jurisdiction where a jury trial may be had. Thus, although the juvenile court is created as a special tribunal, vested with extraordinary powers, its findings may be absolutely annulled by the verdict of an ordinary jury, or the judgment of a court which has neither the powers nor the machinery necessary to deal with the case . . . the right of appeal (in Alabama) lies to the circuit courts sitting not as courts of law—but in chancery (22).

Since children cannot be committed to jails without some cognizance on the part of judges—in many instances juvenile court judges—one could wish that the following pictures were of the past and not the present:

Many jails (in U. S.) . . . receive, also, some young children.

. . . however, in only six towns (Florida) do we find that boys under 16 are not put in jail and in only six towns are they kept separate (1922).

Wisconsin (177 individuals were examined in jails)—the ages varied from 13 years up . . . (1921).

Yet Joseph Fishman defines a jail to be "an unbelievably filthy institution" (23).

If the following can be said of one of the very large metropolitan cities of the United States, what might we not say of many smaller communities if we but knew the facts?

The magistrates still exercise jurisdiction over incorrigible children conferred on them by the Act of April 10, 1835, P. L. 133 (which provides for commitment to the Glen Mills Schools), . . . notwithstanding the exclusive jurisdiction of the Municipal Court over "disorderly" children (24).

THE WORK OF THE COURTS

Gillin is properly questioning as to what the juvenile courts have done and what their future course of development should be. He says:

No doubt it will change its methods as better ones appear. If proper preventive work is done it may even disappear.

But we must not forget this that due to the soothing effects of many of the fairy tales told about the achievements of the juvenile court, communities continue to look upon these courts as really prevention agencies and continue to add to their powers instead of withdrawing certain services and placing such in more suitable hands. Yet Judge Mack holds the juvenile court to be "at best only curative."

The committee in charge of the Survey of Criminal Justice in Cleveland (1922) held that dependency and widows' pensions are not proper subjects for juvenile court administration which carries over too many traditional practices from courts for adults.

It is significant that the scope of the juvenile courts in New England is much more limited than it is in the rest of the country (25).

The Boston Court—one of the best in the country—because it is not concerned with dependency—mother's aid and adoptions—does have time to do thorough work with cases of delinquency and waywardness.

The states which have made the most progress in child welfare, as Massachusetts and Minnesota, for example, keep dependency and relief cases out of their courts. There is no magic about a court room—not even in the case of a juvenile court. The magic can only be expressed by the personnel. Understanding people is a slow process. It is detailed, sym-

pathetic, individual—not wholesale mass work—which makes a good court.

When the problems of an individual—child or adult—have reached the point where the law interferes, there is need of a deep understanding of the personal and other social factors entering into the picture. Where a court or an agency disposes of the affairs of persons without this information, it is certain to do great harm. Yet in tens of thousands of cases there is no adequate check-up by the best influences in the fields of the law and social service. Volume of work has a close relationship to quality. Having a child receive ten minutes of a judge's time in an open juvenile court hearing may result in just as much harm as that which he would have received in an adult court in years past. We have in many communities set up extraordinary and expensive machinery in the name of the juvenile court, seeking to provide much information about the child and then because of pressure we give no time, either as judge or probation officer, to the reasonably complete understanding of what the child needs. It should be needless to have to say that where ignorance of the facts enters into a picture of this nature, evil frequently results. What are we to say to the hesitancy on the part of those who know, to criticize wrong conditions in the courts? We certainly need a courageous and open-handed appraising of the achievements and dangers within the juvenile court field.

What concern should we express when courts measure, in part, their importance in a community by handling an increasing volume of work? How much care should a court exercise in receiving petitions? To what extent should people be discouraged from using this public agency? Can a judge handle effectively sixty to eighty cases

at one juvenile court sitting? When such a load of work is placed upon him, to what extent should he seek to have the non-judicial part of his task removed to outside civil administrative departments and agencies? What should be said of a court whose relationship to criminal procedure is such that it even has the district attorney's office represented at dependency hearings and sees to it that committed children reach the agencies to be responsible for their care through the services of the sheriff's officers?

How far does the general public know of the extent to which political forces throughout our cities and counties are aware of the assets which result to them through a political handling of the work of the court? We have in large measure eliminated political interference with our public schools; we have hardly begun to tackle this problem in the juvenile court. In spite of all that is said about the confidential relationship of the work done in the court, how should we view the large amount of sensational publicity which the newspapers give to the courts, especially in terms of children and parents who have been in court?

CHECK ON AUTHORITY

There is a check on the authority which the judge wields in adult courts, but there is very little, if any, control now being exercised over juvenile court judges; yet these same judges are responsible for the separation of great numbers of children from their parents for long and short periods—some even for life, through adoption proceedings. Dean Pound has said that "the powers of the court of star chamber were a bagatelle" to the powers given to our juvenile court.

A Pennsylvania court interpreted the range of the juvenile court as follows:

. . . the broad general purpose . . . was to guard children from association and contact with crime and criminals, to subject children lacking proper parental care or guardianship to a wise care, treatment and control that their evil tendencies may be checked and their better instincts may be strengthened, . . . (26).

Many of the courts have authority to appoint guardians for the children under the care of the court, these same guardians, in turn, having authority to allow the child to remain with his own people or to insist upon his placement elsewhere even to the extent of arranging for and consenting to his adoption. (For an example of this, see No. 27.)

The developments in the field of psychiatry have not made the court's task a less complicated one. The intricacies of personality as presented in the conduct problems of children and their parents call for additional checks and restraints on the activities of the court, these restraints to be expressed through an informed public opinion and also through the interest in the affairs of the court of the best minds in the legal profession. A study of the effects of some court hearings on the mental health of children and parents would yield some interesting material.

Certain confusing elements have been introduced through the proposal made by some for what are called "family courts." The idea in the minds of the proponents is that the same court should concern itself with the problems affecting any individual member of the family where said problem involves family relationships affecting the care and training of children and the stability of the home. In spite of the immense volume of work now being handled by the Juvenile Court of Cook County and the delinquency situation in that community, some are advocating a consolidating of

still more work into a single court. A recent recommendation is as follows:

As has been pointed out before, the domestic relations branch would at once enter upon a greater program of usefulness to the public were the law-givers to enlarge its jurisdiction to take in all matters affecting the family that require judicial adjustment. If it be admitted that public policy of the present day and faultless administrative methods of justice call for special service, then obviously it follows that such special courts should be endowed with ample powers to handle their special problems. This argument means that all family troubles ought to be taken care of in one tribunal, doing away with a multiplicity of courts with conflicting interests and consequent confusion, expense, delay, waste of time of litigants and lawyers, armies of witnesses and scores of jury panels (28).

Judge Mack, who was Judge of the Chicago Juvenile Court, and is now on the bench of the United States Circuit Court of Appeals, has this to say in answer to those who seek to add to the already heavy burdens of the juvenile court:

We are a country governed by law; we have certain constitutional conceptions that are fundamental in our law. Do not let us attempt to stretch this fine beneficial principle peculiarly applicable to children into the realm of adult wrongdoing, at least not until we are eminently more successful in our dealing with the child.

Judge Hoffman, of Cincinnati, speaking of the domestic relations court of that city, has this to say in regard to his handling of certain cases which in other communities would go into the adult courts:

Our statute provides for cases of contributing to delinquency, and I will say that we have never felt that it was an infraction upon the work of the juvenile court to repose the power of trying those cases in the juvenile court. They are tried

separate and apart from all other cases and we have no difficulty whatever in disposing of them. We have no indictment by the grand jury; an affidavit is filed and the case is tried upon affidavit and by jury. Felony cases are tried by jury unless the jury is waived and the case is tried according to the ordinary procedure (29).

There is danger that now after having for a number of years been engaged in the process of segregating from the stream of adult cases situations involving children under sixteen and even up to and beyond eighteen, we may head into such a volume of work as to utterly wreck what has been gained by reason of the best juvenile court work during the last twenty-five years.

EXPANSION INTO DOMESTIC RELATIONS FIELD

Miss McChristie, speaking in 1925, utters a note of warning on the expansion into the field of domestic relations courts including juvenile work, as follows:

Looking backward again we are not convinced that family courts have improved appreciably particularly in their internal organization and in the perfection of their socialized functions (30).

The power of the judge is not limited, of course, to what he says in the courtroom. Pending a hearing of the case in court, the child may spend a considerable period of time in the house of detention, or even in a jail. It is of the utmost importance that a child be protected from a needless stay in a detention home, or from a commitment to a disciplinary institution, or even to a foster family agency, when, if due care had been exercised, he could have been allowed to remain with his own people. It is interesting to note the practices of communities in regard to the commitment of children, both

for care in houses of detention, and also for treatment for long periods in training schools. Healy and Bronner have a body of experience on this point not matched by that of any other two people in this field. In their comparative study of conditions affecting juvenile delinquency in Boston and Chicago, they found that covering a five-year period, for the entire city of Boston, 9.5 per cent of all juvenile court cases were committed to different agencies for care. The same figure for Chicago was 40 per cent. New York and Philadelphia tend to match Chicago with its higher percentage of commitments. Roughly speaking, a delinquent boy in any of these last three cities is five times more likely to be committed by the court than in Boston. Speaking further, Healy and Bronner say:

The general policy of commitment to an institution is a matter worth much discussion.

A theory espoused in America perhaps more than anywhere else is that the delinquents will be reformed by being sent to an institution—not for punishment—but where housed with other delinquents they are subjected to a supposed reformatory process.

Length of time children stay in detention care—the average stay of boys is 7 days; girls, 11 days; for Boston, 1 to 3 days for less than 100 children who were given detention care.

The rôle that the detention home plays in relation to creating a tendency to delinquency is undoubtedly very important. . . . These influences are almost inevitable even under management as excellent as that which obtained in the Chicago detention home—indeed we may quote from an annual report the words of a most efficient superintendent: . . . "Whether it is a lad of 10 held for truancy, or a boy of 16 held for burglary or forgery, they are all housed together. . . ." Speaking of the girl, she says: ". . . They never leave the home without a thorough schooling in every par-

ticular pertaining to immorality. . . . It is impossible to keep the children from talking to each other" (31).

The non-institutional type of care for the treatment of personality and behavior problems in children is described in detail in a new and important study (25).

DETENTION HOMES

It comes as a shock to many people to be told that juvenile court detention homes are now listed among the important agencies causing juvenile delinquency. It is no light matter for a child to be sent to one of them.

The tendency has been for the larger cities at least to erect extensive juvenile court detention homes. Cells are provided for the custody of certain cases. The experience is that the larger the home, the greater the congestion. Chicago is no better off with its new and enlarged plant than it was with the old one. With crowds of children sweeping through, many of these places tend to become schools of crime under the very protection of the law. We should again look at Boston, foster families for detention care, no city juvenile detention home, yet a falling juvenile delinquency rate. Certain older boys are sent to jail.

Mrs. Joseph T. Bowen, speaking at the 25th anniversary of the Chicago Juvenile Court, says this:

The present detention home has every appearance of being a jail, with its barred windows and locked doors. . . . Its attendants do not understand the psychology of childhood; . . . the whole atmosphere of the place is wrong (32).

After a child has been tried on probation at home and failed, he may be tried in a foster family. If he then fails, he is committed to a training school—sometimes under public—sometimes under private control. The

authorities say many severe things about these training schools. There are good ones—but as for the rest, let us see. Gillin speaks of them as follows:

Juvenile reformatories unfortunately today do not enjoy a very high esteem.

The character of the institution and its usefulness depend almost entirely upon the qualities possessed by the superintendent and staff (33).

Many jails provide cell rooms which are used expressly for children. The fiction of the law is maintained, but there is no doubt about the child's recognizing the fact that he is in a jail. However, what is the difference between a juvenile detention home and a jail, if cells are used in the former and there is easy exposure to children with bad records? As the juvenile court enters the 16-21 age groups, it will of necessity be compelled to provide places of restraint for some of its wards, these places to all intents and purposes being jail-like in character.

Dr. Kirchwey, from his long experience in the field of penology, and with special reference to the great knowledge concerning the men whom he came to know during his period of service at Sing Sing, says this:

Those men have been in some juvenile institution; . . . and in every case without exception, the individual attributed his criminal career to the experiences of life that he had in that institution.

. . . and I have seen, within these last few years, conditions prevailing which have made me absolutely disillusioned, if not absolutely hopeless, with regard to the possibility of bettering a child through commitment to any institution whatsoever.

Written by Jack Mulraney just before his execution in Sing Sing:

The guard has just touched me on the sleeve; he tells me I have only a minute more. I have not been much use to myself

or to anybody else. I do not suppose I would be any use if I was to live. I would like to have one more year, though, to see what I could do to help you keep the kids out of institutions. No kid ought ever to be put in an institution.

Yours truly,

HAPPY JACK (34).

When Queen describes the court session as resulting in

a court order of removal; a scolding for the parents; some pious advice for the child, and the affair is over . . . officially (35),

he is picturing the setting of many a procedure which results in exposing children to the conditions and influences described above. In most of the states the authority of the court reaches out into many of these institutions to which children have been committed, thus determining the length of stay which, if continued beyond a certain point, may be considered as a recommendation for additional punishment, or if cut too short may demoralize the child and the institution. Yet this is the way the political judge plays.

One may say that where an injustice has been done, the injured party has the right to appeal, but many difficulties interfere at this juncture: lack of money, and the attitude of the bar itself. It is matter of common knowledge that the best lawyers keep out of the juvenile court field. Frederick P. Cabot was appointed to the Boston Juvenile Court. The reactions of his friends impressed him as follows:

Some people pitied me when I was made Judge of the Juvenile Court and I had letters from many and many of my friends. Almost all of them took the position, "Why did you give up the law?" (36).

JUVENILE COURT JUDGES

The leading juvenile court judges have all made individual sacrifices,

both in money and health, but the honors of the bar are not going to those who are filled with a passion of service for their fellow-men such as is opened up to them through the juvenile court. The juvenile court field calls for socialized law in part, and this it can only receive through the ministrations of judges who have a sympathetic understanding of how closely interwoven is the law and social welfare when one enters the juvenile court. This point of view or attitude can be imparted through contact with social workers, but it needs its initial beginning in law schools. Only in this way can bench and bar prevent a grave and increasing abuse of powers through the juvenile court.

The tenure of judges should be sufficiently long "to warrant special studies and development of special interests—ten years—preferably not less than six years," but this is an ideal which at the present time is attained in very few places.

Some thoughtless people have held that legal training was not necessary for the position of juvenile court judge. Judge Mack has an effective answer for this:

The public at large, sympathetic with the work, and even the probation officers who are not lawyers, regard him (the judge) as one having almost autocratic power. Because of the extent of his jurisdiction, and the tremendous responsibility that it entails, it is, in my judgment, absolutely essential that he be a trained lawyer, thoroughly imbued with the doctrine that ours is "a government of laws, not of men" (37).

Or, on the other hand, there are those who go to the other extreme, and as Judge Mack says:

. . . think that any judge of the juvenile court must necessarily be a fine fellow, filled with the wisdom of the ages,

thereby rendering themselves wholly incapable of criticizing anything that the judge or court does.

Flexner and Oppenheimer say:

Over half the states make statutory provision for appeals from decisions of the juvenile court (38).

In view of the inferior quality of the work done in many courts, there would be a number to dissent from this further point of view as expressed by them:

The first point of attack upon juvenile court statutes was that children were being deprived of due process of law. . . .

If juvenile court laws are not of a criminal nature it follows that they are not unconstitutional because of the informality of the procedure followed under them, or because they deprive the children of the right to trial by jury or the right of appeal; nor are the laws unconstitutional as imposing unequal penalties or as depriving children of the equal protection of the laws, or as infringing their right not to be tried except upon presentment or indictment (39).

One should here keep in mind the increasing tendency of the adult courts to give weight to the conduct records of children appearing in the juvenile courts. Record after record of adult prisoners include as part of their "criminal record" their history of truancy and the commission of misdemeanors. Being without wise legal advice at the time of appearance before a bad judge might result in grave injury to a child.

As pointed out by Judge Edward Lindsey, relatively few appeals are taken to the higher court. His comment is a sobering one:

On the legal side it has been pointed out that the lawyer will look in vain for reported cases arising under the juvenile court statutes on other than constitutional questions. Yet the cases which arise and are disposed of under these statutes fre-

quently involve fundamental legal principles, for questions of status are the most fundamental of all legal questions. . . . By questions of status is meant those questions which pertain to the relations of individuals to each other and to social and political groups, such as the family, the state, and society in general. All rights and obligations pertain to persons either by reason of the person's relation to some group—from the mere fact of his standing in that relation—or because of some contract or agreement between himself and some other person or group (40).

CONTACT WITH SOCIAL AGENCIES

The contact which the juvenile court has with social agencies and all other persons having knowledge of the particular issues, enters the field of evidence or testimony. Much that is valuable to the social worker is not so considered by the courts in general. Frequently the criticism is made that all too frequently the ordeal before the judge is with the view to concealing testimony. It was the hope of those who initiated the juvenile court movement that its hearings would be free from a great many of the old adult court restraints. But many questions still remain to be answered, and they can only be answered by the joint participation of socialized lawyers and social workers having a proper understanding of the meaning of legal practices.

Dean Wigmore indicates the probable trend as to the admissibility of what may be called social case work information:

For the more liberal recognition of an authority such as would make admissible various sorts of reports dealing with matters seldom disputable—and only provable otherwise at disproportionate inconvenience and cost . . . this policy when judiciously employed, greatly facilitates the production of evidence without introducing loose methods (41).

But Judge Waite indicates in his comment the considerations which must be kept in mind:

It is probable that as socialization of the courts proceeds, the tendency toward the use of this form of evidence will grow stronger, but popular prejudices must be reckoned with, and procedural convenience will be dearly bought if the cost be impairment of the general confidence in the administration of justice.

The question is here raised as to how this "socialization of court records" is to go on without the closest interplay with the best minds in the fields of law and social work, in order that we will not only accumulate information about people, but use it to help them.

JUVENILE COURT LAWS

The early juvenile court laws set sixteen as the top age limit when the court could assume authority, although if a ward of the juvenile court before sixteen, the authority might be continued through minority—but this is not uniform. A number of states set eighteen as the top limit, and some go as far as twenty-one. This is of serious consequence to children depending upon the states in which they commit offences. In one state a child would be treated with leniency in the juvenile court, and for the same offence twenty miles away in another state would be handled in an adult court and probably be sentenced for a long period to a common jail. The prevailing opinion throughout the United States is that the minimum top age limit should be eighteen.

In approximately one-third of the states the jurisdiction of the juvenile court extends to children under 16 years of age; in one-third to children under 17; and in the remaining third to children under 18 and above. The tendency is to make the age limit higher. In California the court has

exclusive jurisdiction to 18, and concurrent jurisdiction to 21 (42).

But the moment one enters the period of over sixteen to eighteen, one enters the field of conduct difficulties, involving many very serious acts, and where it is the common tendency on the part of police, probation officers, judges and the public to approach the child with the severity of the adult criminal court. In a number of states children charged with certain crimes may not be tried in the juvenile court, but must be tried in an adult court.

Under some statutes a juvenile court must relinquish jurisdiction in cases of serious offences . . . and have the children tried in a criminal court (43).

The remedy for this as suggested by one authority is as follows:

I am not one of those who maintain that since the law and the courts can be found to be dismally weak in the prevention of many delinquent careers, the problem should be turned over to science alone. I believe in the value of the idea of the majesty and power of the law.

I fear that judges for the most part have not their feet on the ground in this matter of studying the result of the treatment they prescribe (44).

Here again we note the insistence on the need of socialized law; of remedy within the court through the right personnel. How else are we to escape, then, from courts which do work such as the following:

Four children—ages 6 years; 4 years, 9 months; 2 years; and a baby 3 months;—were brought before the juvenile court—charged—"Tampering with mail boxes." (This is copied from the court docket.)

Fifteen-year-old white girl in juvenile court for truancy. Court thought she had misbehaved (sexually), so sent her to jail (detention ward), where she remained eight days. Report was no sex experience and no venereal disease. Because of jail

experience the school refused to receive her. So juvenile court ordered her to go to work although she had not completed sixth grade.

Fourteen-year-old girl-mother, unmarried—was mental case; child neglected; had inevitable sex experience; was kept in jail 76 days for medical treatment (which she apparently did not need) before reaching Sleighton Farms (training school) (45).

Children are still tried by juries in some courts, although as in the case of the jury of six, as required by the Illinois law for commitments to manual training and industrial schools, their service is largely perfunctory.

Over 40 states have enacted legislation making adults criminally liable for causing or tending to cause juvenile delinquency or dependency. Jurisdiction over these cases usually is given to the juvenile court (46).

Judge Ben B. Lindsey, speaking from the standpoint of the Denver Court, says:

The juvenile courts of Colorado were the first courts in this country, so far as I know, to have a satisfactory system of hearing every aspect of a child's case before the same tribunal . . . we brought in the parent or other adult who offended against the child (47).

Yet the Denver court has not observed a great many of the standards considered basic in good juvenile court work.

. . . There can be no age limit as to those who are the contributing factors in the child's misfortune, and they should be triable before the socially-minded judge of the juvenile court, regardless of their age (48).

These recommendations of control by the juvenile courts over adults, and all others contributing to the neglect or delinquency of children, are related to a field of law capable of much abuse. If we put more law, or make it clear that there is already much law in need

of the most careful interpretation in the juvenile courts, we may be able to direct to it the spirit and interest of more able members of the bar.

A study of the legislation put on the statute books of our various states in behalf of societies to protect children from cruelty—especially the New York Society—is well worth while by those who do not as yet see some of the probable trends on the part of the juvenile courts in the inquisition and exercise of power. Many of the humane societies—some called Societies for the Protection of Children from Cruelty, or for the Prevention of Cruelty to Children—operate under legislation very special in character, giving them powers which they can exercise, with little or no check-up by courts or other governmental authorities. If the juvenile courts are to do effective work, it must be brought about, in part, through a surrendering of some of their activities so that within a specialized field, where social law has full and free play, they will be best able to serve those who come before them.

To recapitulate: we have Flexner and Oppenheimer saying that:

The basic conceptions which distinguish juvenile courts from other courts can be briefly summarized. Children are to be dealt with separately from adults: their cases are to be heard at a different time and preferably in a different place; they are to be detained in separate buildings, and if institutional guidance is necessary, they are to be committed to institutions for children. Through its probation officers the court can keep in constant touch with the children who have appeared before it. Taking children from their parents is, when possible, to be avoided. On the other hand, parental obligations are to be enforced. The procedure of the court must be as informal as possible. Its purpose is not to punish, but to save. It is to deal with children not as criminals, but as persons in whose guidance and welfare the State is peculiarly inter-

ested. Save in the cases of adults its jurisdiction is equitable not criminal in nature (49).

And we have Judge Schoen saying:

. . . Our juvenile court is still in a formative state and is not yet fully recognized as the great social agency for good in community life that all of us hoped it might become after so many years of earnest effort by so many people in so many quarters all over the land (50).

Yet 1,269 of these courts in 1920 heard a total of 140,252 cases; 1,088 courts reported a total of 79,946 cases of juvenile delinquency. (For source, see No. 51.)

If the spirit of the law which has reached a high water mark in the pronouncements of the leaders of the bar, that justice should reach down and surround the poor, we can see how large a task lies before those concerned with the developments of legal-social work standards in the juvenile court field of action.

We have failed in many places to establish or maintain good probation services. Social case work in the juvenile courts faces the obstacles of poor personnel in far too many places—and also a volume of work which makes good work an impossibility. Perhaps the wonder is that conditions are not worse than now reported by those who know a great deal about actual probation work throughout the country. But before we can improve we must first know. As it is there is too much that is menacing about the juvenile court and its related fields of work. The juvenile courts must be relieved of part of their present activities before any great improvement will be noted.

But above all this, we need to be reminded of the fact that the quantity and quality of work in the juvenile courts are closely related to living conditions throughout these United

States. When more people receive higher wages and are thus enabled to secure for themselves higher standards of living in terms of health, good housing, education, leisure, thus allowing the spiritual forces within them to develop, the work of the courts will be reduced to its limited and rightful place in the scheme of things.

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- (38) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, p. 25.
- (39) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, p. 9.
- (40) Edward Lindsey, *The Juvenile Court Movement from a Lawyer's Standpoint*, Annals of the American Academy of Political and Social Science, Vol. LII, p. 140.
- (41) Wigmore, *Evidence*, Vol. III, Sec. 1672.
- (42) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, p. 16.
- (43) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, pp. 17, 18.

- (44) Healy, *The Child, the Clinic and the Court*, Conference January, 1925, p. 48.
- (45) Stern, *Treatment of Adult Offenders and Children in Luzerne County*, Pennsylvania Committee on Penal Affairs.
- (46) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, p. 20.
- (47) Judge Ben B. Lindsey, *The Child, the Clinic and the Court*, p. 281.
- (48) Schoen, *Proceedings of the Conference on Juvenile Court Standards*, U. S. Children's Bureau Publication No. 97, p. 34.
- (49) Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U. S. Children's Bureau Publication No. 99, pp. 8, 9.
- (50) Schoen, *Proceedings of the Conference on Juvenile Court Standards*, U. S. Children's Bureau Publication No. 97, p. 33.
- (51) A Study by Belden, *Courts in the United States Hearing Children's Cases*, U. S. Children's Bureau Publication No. 65.
- (52) *The Juvenile Court in the United States*, H. H. Lou, 1927, pp. 212-220.
- (53) *Industrial Schools for Delinquents 1926-27*, Bulletin 1928, No. 10, Bureau of Education, U. S. Department of the Interior.

The Report of the Children's Commission of Pennsylvania, 1926, on Legal Foundations of Courts of Pennsylvania in Handling Children's Cases, contains much valuable information along these lines.

Family Desertion (Report on a Study of 423 Cases)

By CHARLES ZUNSER

Chief Counsel, National Desertion Bureau

SOME eighteen years ago, a group of Jewish social workers and laymen met in St. Louis, at their annual conference, and took steps to establish an agency to deal with the problem of family desertion. For some years before, the problem had been a vexing one to relief agencies whose representatives had discussed the question at its first conference held in 1901, when it was found that some relief organizations spent as much as 20 per cent of their total budget in the maintenance of deserted families, and that in addition, communities and municipalities had been spending considerably more in the maintenance of deserted children in orphanages and foster homes. Indeed, the discussion of this problem and how to meet it was in part responsible for bringing the National Conference of Jewish Social Service into being.

As a result of these deliberations, and particularly after the discussion of papers read by Dr. Lee K. Frankel and Morris D. Waldman, who outlined a plan of organization, the National Desertion Bureau was established in 1911. Its board, presided over by Walter H. Liebman of New York, consists of lawyers and social workers. The Bureau set for itself the purpose of acting as a clearing house for all Jewish social service organizations, which desire its assistance in coping with the evil. This assistance includes an attempt to locate missing husbands and fathers of indigent families; to coöperate with referring agencies and other community resources, both social and legal, in effecting reconciliations where feasible and advisable, or bringing about ar-

rangements for separate support and maintenance or the prosecution through existing legal means of recalcitrant offenders; to coördinate the activities of social agencies, legal aid organizations and individuals in different states which are assisting the Bureau in its search for the deserters and which act as its volunteer investigators and correspondents; to arrange for the defense, to institute, defend or contest matrimonial actions when such action is for the best interest of the family and the community. The Bureau also acts in an advisory capacity to its constituent organizations and clients in legal questions of domestic relations.¹

STATISTICAL STUDIES

The Bureau handles about 2,500 cases annually, inclusive of new, old, recurrent and hold-over cases.

The following report represents an excerpt from a study of 1,053 cases of family desertion which were referred to the Bureau through various sources during the calendar year of 1926. The figures represent the total number of

¹ For a more detailed statement of its functions and activities see the several publications of the Bureau. See also the Report of the Joint Committee for the Study of Legal Aid, Judge Bruce Cobb, N. Y., 1928. See also chapter on "Deserted Families" in *Family Welfare Work in a Metropolitan Community*, S. P. Breckinridge, Chicago, 1925. *The Proceedings of the National Conference of Jewish Social Work for the Years 1905, 1910, 1923. Jewish Philanthropy*, by Dr. Boris B. Bogen, N. Y., 1917. *Broken Homes*, by Joanna Colcord, Russell Sage Foundation, 1919. *Family Desertion as a Community Problem and Its Treatment*, Charles Zunser, The Jewish Communal Register, N. Y., 1918. *Justice and the Poor*, Reginald Heber Smith, Carnegie Foundation for the Advancement of Teaching, 1919.

new cases handled during that year, aside from the old, recurrent and hold-over cases treated during that period. The families studied are Jewish (a few scattered non-Jewish and intermarriage cases are noted). For technical purposes all cases referred to the Bureau are divided into four classes: (A) Those referred by Jewish Federation, organizations and individuals in the interior cities (for technical reasons, Brooklyn cases are included in this category); total, 437 cases. (B) Cases arising in the Manhattan and Bronx, referred by the Jewish Social Service Association, being mostly cases where some sort of monetary relief or service is rendered the family; total, 60. (M) New York (Manhattan and Bronx), cases referred through miscellaneous sources or direct application by the wife—in some instances by the husband—total 423. (F) Foreign cases in which the family resides abroad, the husband being in the United States or elsewhere; total, 133 cases.²

The statistical studies were made by Helen Zunser under the writer's direction, in 1927, as an attempt to bring to light some interesting social data, bearing on deserted families and filed away among some 20,000 similar family histories which should be studied for the valuable data of concern to psychologists, sociologists, psychoanalysts, behaviorists, social workers and other students of the family.

I have refrained, as far as I humanly could, from commenting on or "explaining" the material here adduced, in order to avoid the pitfalls of uncoordinated generalization, and will let

the facts speak for themselves, leaving it to the specialists to eke out whatever moral or meaning they desire, depending on their own rationalizations.

Space forbids me to dilate on all of the 1,053 cases studied. We will therefore confine ourselves to a study of the 423 miscellaneous cases, those arising in Manhattan and Bronx, and referred to the Bureau through relief organizations, the press, and through direct applications. In the Bureau classification these are known as M cases, for these afford a better opportunity for study because of the personal contact with the wife, and very frequently with the husband, too. In this classification, 423 cases were studied.

Number of Children in Deserted Families.—Eighty-five of these marriages were foreign; the rest were contracted in the United States. Sixty-eight were childless marriages, and the number of children in the fruitful marriages, at the first desertion, were recorded as follows: one child, 121; two children, 81; three children, 60; four children, 31; five children, 13; six children, 10; seven children, 3; nine children, 2; ten children, 1. Of the above number, 18 were recorded as pregnancy desertions. In the rest the number of children was not given.

Age of Children at First Desertion.—A total of 861 children were born to the 355 couples. The ages of 803 of these, at the first desertion, were recorded, leaving 58 unstated. Of these, 352 were male children and 451 females. Of these, the children who were less than a year old at the time of the desertion, were 23; one year, 39; two years, 34; three years, 46; four years, 37; five years, 47; six years, 41; seven years, 32; eight years, 56; nine years, 21; ten years, 41; eleven years, 35; twelve years, 24; thirteen years, 34; fourteen years, 23; fifteen years, 27; sixteen years, 27; seventeen years, 22;

² For a description of this type of case, a by-product of the Great War, see chapter, "New Tendencies in Jewish Family Desertion," a paper read by this writer at the National Conference of Jewish Social Service, Washington, May, 1923, and printed in the published *Proceedings*.

eighteen years, 15; ages nineteen to thirty-five total 85.

*Average Spacing of Children.*³—In 177 of the 355 fruitful marriages, were we able to tabulate figures. We were eager, for obvious reasons, to classify separately the results of American and foreign marriages. Total American marriages thus classified, 135; total foreign marriages, 42. Average spacing: one year, A. M. 20, F. M. 2, total 22; two years, A. M. 42, F. M. 14, total 56; three years, A. M. 40, F. M. 12, total 52; four years, A. M. 12, F. M. 8, total 20; five years, A. M. 9, F. M. 4, total 13; six years, A. M. 6, F. M. 0, total 6; seven years, A. M. 4, F. M. 0, total 4; eight years, A. M. 1, F. M. 2, total 3; nine years, A. M. 1, F. M. 0, total 1.

Length of Marriage Span at First Desertion.—In 350 cases were these facts recorded:

1 week	1	12 years	12
3	1	13	12
1 month	1	14	12
2	5	15	16
3	2	16	7
4	1	17	5
6	4	18	12
7	1	19	4
8	2	20	4
9	3	21	12
10	1	22	6
1 year	23	23	4
2 years	20	24	1
3	24	25	13
4	22	26	6
5	20	27	3
6	22	29	1
7	17	30	2
8	11	32	1
9	19	35	1
10	14	37	1
11	11	38	1
		40	1

Length of Time Elapsing between Desertion and Application at Bureau.—It may be of interest here to note the

³ The spacing cannot be calculated in the parts of the year, inasmuch as the ages of the children are usually recorded in round numbers.

length of time elapsed between the act of desertion and the filing of the complaint at the Bureau. Of the 264 cases where such fact is recorded, 20 applied in less than a week; one week, 13; two weeks, 19; three weeks, 18; one month, 34; two months, 13; three and four months, 11 each; five months, 9; six months, 4; ten months, 2; eleven months, 6; one year, 24; two years, 23; three years, 11; five waited four years, and a similar number waited five years before applying; six waited six years; three waited eight years; one waited nine years; two waited ten years; one waited twelve years; and four proud women waited fully thirteen years. The tendency to talk in round numbers is again evident here.

Month of Desertion.—Has the month or season a bearing on the desertion complex? Here are the figures—make the most of them; the total number given in 280 cases: July led with 28 desertions; April followed with 26; January and February were close on its heels with 25 each; then came March, June, September and October with 24 each; August furnished 23; May and November 21 each, and December but 15. I believe that a larger number of cases studied would show a somewhat different result.

Place of Marriage.—Of the 338 cases in which the place of marriage is given, 260 were American marriages and 88 foreign ones. Of the American marriages, 234 were solemnized in New York City; ten in New Jersey, and the balance scattered. Not much credence can be placed in the clients' statements concerning the place of the foreign marriage, because of the recent political and geographical changes in European countries. The largest numbers of such marriages were in Russia (41), Poland (15), and Austria (10), Roumania (3), two each in Germany and

England; one each in Canada, China, Hungary, Palestine and Turkey; five were unrecorded.

Husband's Age at Marriage.—Is given in 343 cases, of which 68 occurred in foreign countries and 275 in the United States. The ages recorded are from 14 (one foreign) to 61 (one American). The highest total for both American (33) and foreign (10) is the age of 23, and the 20th to the 30th year; total, 216 American marriages and 51 foreign ones.

Wife's Age at Marriage.—The marriage age of women ranges from 14 (two American and two foreign marriages are recorded in that age) to 49 (one American marriage). The highest single total (32) is recorded at the age of 20, the 17th to the 27th year (inclusive); total, 222 American and 60 foreign marriages. Two foreign marriages at the age of 15 are recorded and eight marriages at the age of 16, foreign and American evenly divided. Twenty American and three foreign marriages at the age of 17. The total of child marriages (at 18 and under) is 66 out of 343.

Husband's Age at Desertion.—Is given in 350 cases; of these one deserted at the age of 18; two at 19; five each at 21 and 22; eight at 23; thirteen each at 24 and 25; eight at 26; the ten years between the ages of 27 and 36 aggregate the largest total, thus: 27, 13; 28, 14; 29, 17; 30, 18; 31, 10; 32, 12; 33, 16; 34, 19; 35, 13, and 36, 17. After this age, the numbers dwindle; there is a sudden flare-up at 43, 10 cases; at 44, 7 cases, and at 45, 11 cases. (Is there a "dangerous age" for husbands as well?) After the 45th year, there is a decided drop. We have two cases recorded at 60; one case at 61; two at 62; and one at 68; these men were not, however, belated Lotharios—rather, they represent unsuccessful late remarriage of widowers.

Wife's Age at First Desertion.—Is recorded in 327 cases; at 17 in 2 cases; at 18 in 3; at 19 in 8; at 20 in 4; at 21 and 22 in 9 each; at 23 in 14; at 24 in 13; at 25 in 9; at 26 in 14; at 27 in 13; at 28 in 16; at 29, the highest number, 22; from the 20th to the 30th years, the total is 133; from the 30th to the 40th years, the total is 117; from the 40th to the 50th years, 56; from the 50th to the 58th, 8.

When the Wife Deserts.—Of the 423 cases of family desertion reported to the Bureau in this classification, in 13 the wife was the deserter. Their ages are recorded in but six instances; one each at the age of 23, 30, 31, 33, and two at 38.

Number of Previous Desertions.—As given by the wife in 47 cases; one previous desertion in 30 cases; two in 6 cases; three in 6 cases; four in 2 cases; five in 2 cases; six in 1 case; twenty-five men were described as being chronic deserters—where the count was lost. Twenty-four of these cases had been handled by the Bureau more than once; of these seventeen more than once; four more than twice; one more than three times, and two more than four times.

Age of Husband at Emigration.—These are recorded by countries of origin and are given, for the husband, from the age of 1 to the age of 43. Twenty-seven entered the United States at the age of 10 and under; 101 between the ages of 11 and 20; 78 between the ages of 21 and 30; 17 between the ages of 31 and 40.

Age of Wife at Emigration.—Twenty entered the United States between the ages of 1 and 10; 102 between the ages of 11 and 20; 61 between the ages of 21 and 30.

Defects Noted in Husbands.—Recorded in 32 cases: asthma, eye trouble, deaf-mute, dementia praecox, gonorrhea, "insane," paranoia, tuberculosis,

one each. Epilepsy, cardiac, hernia, arrested tuberculosis, two each. Shell-shock and gassed, syphilis, three each. Mental defect, neurotic, four each. Three were recorded as having an additional disease. In three cases the wife described the husband as being "in poor health."

Defects Noted in Wives.—Ninety-eight cases recorded. These include asthma, 4; cardiac, 5; diabetes, 3; deaf, 2; deaf-mute, 1; "bedridden," 1; gonorrhea, 1; insane, 2; imbecile, 1; mental defective, 2; high blood pressure, 2; neurosis, 7; gall stones, 5; trachoma, 1; mastoid, 1; tuberculosis, 4; arrested tuberculosis, 1; tumor, 1; rheumatism, 3; "persecution complex," 1; syphilis, 2; blind, 3. Six women described themselves as being "nervous," and in four cases, Bureau worker noted erratic behavior.

Husband Previously Arrested for Crime.—Thirty-five deserting husbands had been previously convicted. Larceny heads the list with six; four each for child abandonment and disorderly conduct; three for assault; two each for bastardy, burglary and perjury; one each for cruelty to animals, drug addict, highway robbery, impairing morals of a minor, indecent exposure, rape, seduction, receiving stolen goods, obtaining money under false pretenses; one was jailed for contempt of court in a civil suit. Not a single instance of the arrest of the wife was found among these cases.

Previous Matrimonial Court Action.—In 120 cases there had been previous court action; 14 couples were divorced, and in a similar number there had been a legal separation. The husband failing to pay alimony as directed by the court brought these cases to the Bureau. In 8 cases, after a preliminary complaint in the Family Court, the interviewer effected a reconciliation; in 10 cases, the husband had

been committed to the workhouse in lieu of a support-bond, and in 74 cases there were previous orders by the court to pay support on probation or by agreement.

Occupation of the Husband.—Total recorded, 423. Chauffeurs and taxi drivers head the list with 33. Clothing operators follow with 32 (of whom 24 were Union men); inside salesmen, 19; pressers, 19; peddlers and store tradesmen followed with 17 each; painters, 12; tailors and waiters, 11 each; butchers and furriers, 9 each; carpenters, 7; bakers, traveling salesmen, 6 each; printers, 5; electrician, laborer, milliner, 4 each; cutter, factory worker, Hebrew teacher, fruiterer, insurance agent, musician, cleaner, pocketbook maker, 3 each; embroiderer, iceman, janitor, designer, pottery worker, paper hanger, realtor, blacksmith, hat blocker, dyer, cobbler, 2 each; and one each of the following trades or profession: author, accountant, bartender, barrel maker, bookkeeper, boarding house keeper, beautician, butler, barber, brakeman, bootlegger, builder, book-binder, buyer, conductor, canvass operator, civil engineer, collector, cigar maker, clerk, chicken farmer, expressman, jeweler, lunch stand worker, leather worker, launderer, lithographer, mechanic, metal worker, manufacturer, motorman, missionary, magician, mattress worker, paper box maker, portrait painter, porter, physician, plumber, restaurateur, pharmacist, social worker, stonecutter, shipping clerk, tinsmith, shoe operator, second-hand dealer, sailor, usher, upholsterer, umbrella maker, wool picker, window cleaner, watch maker, wood turner.

Four have no trades, and one is stated as Jack of all trades; 71 were members of their respective trade unions; 107 were classed as seasonal workers; 33 were classed as

having a secondary occupation. Bootlegging was the favorite secondary occupation.

One hundred and sixty of the husbands are citizens, native or naturalized; 40 are declarants and 197 speak English.

Thirty-four of the husbands had been married previously; of these 7 were divorced, and in 27 cases the marriage was terminated by the death of the wife. Twenty-nine of the wives were previously married; in 8 cases, the marriage was terminated by divorce and 21 by the death of the husband.

Causes of Desertion.—When we come to deal with the question of the causes of these desertions, we can only cite the causes as furnished by the wife at the time the complaint was taken, and, in a few instances, the explanation of the men after their return is given. Neither of these are very trustworthy, for the wife often seeks the fault in the husband, and cannot see the defects in her own character that have led to the wrecking of the home. The husband is mostly beyond reach and is not here to explain his side of the story, and even when he returns he is apt to rationalize and seek reasons which are not the real motivating factors. The fact is that the causes often lie too deep and are beyond the understanding of either husband or wife.

In citing the causes as given by the wife and husband, therefore, our facts are food for the psychologist rather than the social statistician, but they are interesting for that very reason.

Causes of Desertion According to the Wife.—Total, 185 cases. In the largest number, 66, the wife charged her husband with infidelity. In 29 cases, gambling was given as the cause; brutality follows with 18 cases; family interference, 13 (the mother-in-law joke would seem from this to lose some

of its potency); drink, 11; stubborn, would not support, 8; restlessness, 4; sexual incompatibility and religious differences, 3 each; bad business, stinginess, money quarrels, irresponsible, fear of arrest, nags her, bad companion, 2 each. The following alleged causes are given in one case each: money worries, wanted her property, failure to give him promised dowry, debts, ignorance, selfishness, drug addict, did not want children, depraved, wife's refusal to become a prostitute, stage attraction, to avoid draft, separated by war, wife's illness.

Causes of Desertion or Disagreements According to the Husband.—In 73 cases where we were able to obtain a statement from the husband, the following causes were ascribed by the men as their reason for leaving: Alleged infidelity of the wife in 13 cases; family interference, 9; wife insane, 8; wife objected to children of previous marriage, 5; wife neglected children, wife neglected home, wife nags, wife dirty, 4 each; husband's unemployment, believed himself a business failure, wife deserted first, 3 each; wife's jealousy and temper, 2 each. The following causes were given in one case each: wife jealous of former wife; wife did not want children, man's illness, she married him for support, sexual incompatibility, wife too pleasure-loving, and wife took dog away.

What Happened to These Families.—Of the 423 cases recorded in this classification, 61 were cases of non-support or domestic friction and came to the Bureau while the husband was in or about the home. In three marriages, there was a religious ceremony only. In three cases, the wife admitted that the marriage was forced on the husband. Seven were invalid marriages, ten mixed marriages. In six cases, both the husband and wife were non-Jewish.

- In 136 cases, Local investigations were made by Bureau workers.
- " 62 " The Bureau resorted to publicity (gallery of missing husbands), in a chain of Yiddish newspapers throughout the United States and Canada (as a possible means of locating deserters).
 - " 18 " Arrangements were made for the payment of weekly support at the Bureau.
 - " 86 " Applicant unlocated.
 - " 42 " Deserter unlocated, case pending.
 - " 1 " Woman self-supporting, case refused.
 - " 1 " Desertion is collusive.
 - " 2 " Woman died.
 - " 2 " Man located in Europe,—beyond jurisdiction.
 - " 1 " Man located—sick, cannot support.
 - " 1 " " " poor, " "
 - " 2 " " " in jail (one larceny, and one bastardy).
 - " 1 " Woman committed to insane asylum.
 - " 1 " Marriage illegal, action impossible.
 - " 4 " " bigamous " "
 - " 2 " Husband secures divorce.
 - " 4 " Woman's complaint, upon investigation, found without merit.
 - " 1 " Divorce successfully contested.
 - " 4 " Man sentenced to workhouse for non-support.
 - " 36 " Husband returns or makes arrangement for support after investigation or publicity by the Bureau.
 - " 52 " Reconciliation or support—payment arranged by Bureau;
 - " 3 " by another organization.
 - " 80 " Reconciliation or court order by court, after action initiated by Bureau.
 - " 3 " Divorce secured for wife.
 - " 1 " Old court order increased.
 - " 1 " Lump sum secured from divorcing husband.
 - " 2 " Woman comes for increase of court order,—Bureau advises against.
 - " 18 " Woman retained private attorney after Bureau located man.
 - " 19 " Deserter located—applicant to dispose.
 - " 12 " " disposition pending.
 - " 5 " Children of aged parents induced to support.
 - " 5 " " " " found too poor to support.
 - " 94 " The Bureau represented wife in Family Court proceedings.

The above figures represent statistical data and dispositions in only 423 of 1,053 new cases handled by the Bureau during 1926. It has handled in addition over one thousand old, recurrent and continued cases.

In our day, when so much is being said and written regarding family disorganization, the facts cited afford an interesting study and throw a light on a topic of universal human concern.

For lack of space, we are not including cases arising in interior cities, relief cases in New York, and the foreign cases, which should be studied for comparative purposes. A more detailed study of the twenty thousand cases on file in the Bureau archives should be a tempting morsel for some fact-hungry research worker, and should have some value to those dealing with this problem.

The Technique Involved in Making a Legal-Social Investigation

By ALICE WALDO

Former Director of Investigations, The Voluntary Defenders Committee of the New York Legal Aid Society

OF all the fields of social thought and social work there perhaps is none which offers so rich a possibility for far-reaching service as does that of legal aid. While there have been always among the leaders of the Bar those who recognized the social origins of the law, it is virtually within the last six years—since 1922—that the social point of view has been recognized in legal aid work. This development has been coincident with the splendid functioning of the National Association of Legal Aid Organizations since 1922.

The National Association is the successor to the National Alliance of Legal Aid Societies which served merely to bring the members together once a year for friendly contact and discussion. There was no centralized authority vested in the Society to bring about the study of problems, the drafting of reports, and the resulting promulgation of standards.

PUBLIC DEFENDER

Among the many phases of legal aid which were taken up for serious study was that of the work of the defender in criminal cases. The earliest organized work in this field in this country was in 1913, when the office of public defender was created in Los Angeles, California. A state-wide law since has established the office of public defender in every county of California; Connecticut has a similar provision, and other cities and states are gradually adapting the idea to their particular needs.

The first of the privately supported bodies for the defense of poor persons charged with crimes was that of the Voluntary Defenders Committee of the Legal Aid Society. This Committee began its work on April 1, 1917, counsel appearing for poor defendants charged with felonies, arraigned in the Court of General Sessions (New York County). The Committee was not at its inception a part of the Legal Aid Society, but became affiliated with it in 1920, later being completely identified with the older body.

Because of the different type of work necessitated by the criminal charge, a different technique was evolved to obtain information which was required, first, to defend the poor person from the crime with which he was charged, or to lead him to tell the truth where he might have been concealing it; and to gain information about him as a person. This kind of search for facts about the client is definitely social in its emphasis, and lends the color of human interpretation to the sordid criminal charge. From the inception of the work by lawyers of wide sympathy and social understanding, this point of view has been stressed.

It may be of interest to know the steps by which the information was obtained by this pioneer organization, though, with the development of the defender, whether public or private in its support, the original methods must of necessity be improved and modified. Therefore, as a matter of historical interest, if so small a matter may be

dignified by that term, an outline will be given showing the process step by step.

HOW CASES ARE RECEIVED

The method by which the plight of the poor person charged with a felony is brought to the attention of the defender may make all the difference between easy and difficult approach. If the client feels that something is being "put over" on him in having the defender assigned by the court to his defense, he will resist giving required information or may wilfully mislead his questioner. Again, if his case has been referred by a relative or friend, or by a social agency which has known him or his family, he may feel that unpaid service is no service, and try in all ways of which he knows to get "a regular lawyer"—that is one who is paid, however inferior may be his services. Even if the defendant himself asks the defender to take his case, he may listen to the wise-aces in the prison and conclude that a hired lawyer really can "get him out on the ground" in a stipulated brief time. After all, it is the mind-set of the client at the time of acceptance of his case, whatever the route by which it comes to the defender, which makes the first contact easy or difficult. There is growing emphasis upon the desirability of having the court assign cases, giving closer contact and understanding by the court of the work and usefulness of the defender, and a dignity to the office and its incumbent.

OBTAINING THE FACTS

Once the case has been accepted, the first step is to obtain the legal facts of the charge. Occasionally, the attorney who has received the case will make an abstract of the desired facts, or if not, they must be obtained from the office of the clerk of the court or from that

of the district attorney. These facts comprise the name and address given by the client, the nature of the crime charged, such as robbery, burglary, grand larceny; the date of its alleged commission, the date of arrest; and the name and precinct of the arresting officer. The name and address of the complaining witness are entered, the date of the indictment if it has been found, and the subsequent plea, if any. On the back of the card, an abstract is made of the charge, including the names and addresses of the witnesses who are to be called by the district attorney. Spaces are provided on this card for the entry of facts as the case progresses; these may be aliases, a change of plea, a conviction after trial, an acquittal, a dismissal, or a sentence to prison. There also may be a plea of "not guilty with specification of insanity," with the resulting report that the defendant was found to be "sane" or "insane." If the latter, the disposition undoubtedly would be commitment to a state hospital.

This outline covers the recorded facts concerning our defendant in relation to the criminal charge, but they do not tell us what manner of man he is, or what grinding of the law of cause and effect has brought a woman into the cage of the criminal law.

In the progressive steps and contacts with our defendant, this basic fact will underlie everything we seek,—the continuity of identity which makes the defendant the same individual from childhood to the moment we encounter him, whatever may have been the variations of personality and fortune which he may have undergone. Without this point of view, the investigation from start to finish will be on surfaces and relate to appearances, and not to what lies behind them and has produced the present phenomena. If this were not so, there

were little use of treating the cases on their individual merits. As the charge of crime in like cases is in like degree, we might postulate that investigation should proceed by such and such methods and to such distances only, instead of being inductive, alert to all new findings and sources of information. The science of psychiatry—not its pseudo-form—is showing us more and more clearly that if we are to solve the problem of crime, we must understand the person committing the crime, and not the crime itself. The deed has been done by an individual under certain stresses, growing out of identifiable causes. It is this singular and yet understandable mixture of motives which we seek to study, not merely whether or not our client has stolen the amount of money charged in the particular way the law says is this or that crime. It is the individual who must stand the punishment if it is inflicted, or be treated if he is adjudged mentally not responsible, and not the crime he has been charged with committing.

Hence, when we go to talk with the defendant (and it must be remembered that though he may be financially so reduced that he cannot furnish bail and be confined to prison, he is an innocent person in the eyes of the law until proven guilty), our attitude should be of quiet and attentive courtesy which respects that inviolable something which is at the core of even the most confirmed offender. Our knowledge that he is a product of some form of social life which is being lived in our vicinity, be that near or far, adds to our power to get him to speak freely and naturally. He is not from an alien planet, but from circumstances with which we may have a remote familiarity, and with the will to understand, may gain a truer insight and knowledge.

Some of the facts which we seek are

recognized, through long usage, as having definite legal bearing on the charge on which he is held. Those must be the matters of first concern, though they may not be the first elicited. In general, however, a person charged with a crime is willing at once to discuss that which is the reason of his imprisonment. (The Voluntary Defenders Committee has made it a practice to take bail cases only under very exceptional circumstances.) He should be asked if he has thoroughly understood the charge against him, and, if he is in doubt, the abstract of it should be read to him. He should be given an opportunity to ask any and all questions about the defender, who his present interviewer is and his or her relation to the defender, and the reason for any method of procedure which he wishes to question. Unless these questions can be answered to the satisfaction of the client, there can be no worthwhile result to the interview. There are cases where a second call may have to be made before the defendant is assured that his confidence is to be respected, and that free service does not mean poor service.

Also, there are clients whose minds are set to tell a fictitious story, and efforts to get the truth may arouse antagonism and a refusal to have the services of the defender. Then, the investigator reporting this fact, counsel will take the proper steps to be relieved. While there are some baleful "hardy perennials" which cannot seem to be killed in regard to the defender, such as that he is paid "by the state" fifteen dollars for an acquittal and twenty-five dollars for a conviction, there is a general knowledge that his appointment means that he will deal in a fair and open way in his client's behalf, but that he will expect to be told the truth and that in order to obtain witnesses and facts that may be of ma-

terial help in his defense, the client's statements must be checked up.

If the defendant says that certain persons are not to be informed of his predicament, or that none but those named are to be interviewed, his wishes must be respected as they would be if he were a private client, unless it becomes necessary to persuade him to change his attitude. Then the reasons for so doing must be made plain to him, and, if he is mentally competent, he must be made to see that his interest can best be served by following another course than that which he first outlined. Part of the alteration of his point of view may come from the fact that the defender may have learned that the very persons whom he did not wish to have interviewed have been secured by the district attorney as witnesses against him. This will put a different face on the situation and he may give willingly facts which will have a vital bearing on the handling of his case. In this connection it is of interest to note that because of the confidence which the defender has won in the courts, the district attorney often will seek out the defender to discuss with him the elimination of red tape. It may be that the district attorney has become persuaded of the weakness of the case against the defendant and will be glad to entertain a motion for the release of the client on his own recognition; or he has come into possession of such conclusive evidence of his guilt that to prolong his stay in jail is needless waste, and wishes the case to be speeded up for a change of plea or trial. The defender will take proper note of all that is submitted to him, and, in the light of his investigation, will act or not act on the district attorney's request. He in turn may go to the district attorney, or, in the presence of the court, discuss with him certain facts which should speed up,

or secure a needed delay to permit the receipt of facts from some distant locality.

IMPORTANT FACTS

The most important legal statement of the defendant is his explanation of how he came to be charged with the crime. He is questioned to bring out clearly every point which convinces the interviewer that he is getting a coherent statement, if not the complete truth. Of course methods have to vary slightly with different defendants, permitting the use of a certain amount of the vernacular where correct terms would not be understood, but the basic attitude of courteous desire to understand and serve will gain more than any other.

Because the interviewer, in the majority of cases, is a socially trained person, this informality of approach is the easier to obtain, and the quiet change to topics of an intimate kind made simpler. But while the entire statement is being taken, the investigator must be on the alert to catch clues to concealed facts and attitudes which may be of vital importance in clearing up the case, either by giving unmistakable evidence of guilt, or of mental illness, or of the assumption of guilt to shield someone else. It is of interest to note that the larger proportion of the defendants dealt with by the Voluntary Defenders Committee either plead guilty or are convicted after trial. This indicates that the sifting process of the magistrate's court and the grand jury has dropped out the larger number of innocent persons. Yet some always will get through, and the investigator has no right to assume the attitude of judge and jury toward his client. Many a client whose story at first sounded impossible has been proven innocent when a witness for the prosecution has broken down on cross-

questioning, or unexpectedly has given just the needed corroboration, or the defense has secured witnesses whose testimony proved the fact beyond a doubt.

Supposing then that the defendant is in the mood to enjoy talking about himself and his personal concerns, he is asked age, his date and place of birth—if in the United States, the town, city or village, the county if necessary, and the state; if in a foreign country, the name of the country—unless for some reason it seems best to get data similar to the local—his civil condition and his religious affiliations; and note is made of his race or color.

In the course of his statement about the charge, he may have given direct information or hints about a previous criminal record. These should be mentally noted and at the proper time be brought up in the conversation. If this is done in the course of the interview when there is a feeling of confidence between the defendant and his interviewer, there should be no difficulty in obtaining it. More particularly is this so since the law in New York State has been changed to make it obligatory for the police to furnish the criminal record of a defendant so that it is on record in the court at the time of the defendant's arraignment. In years past the defendant must be convicted before this information became available. The charge, disposition, time served, length of parole if any; probation, if any; names and location of institutions in which time has been served; names of probation and parole officers, and consecutive numbers used in different prisons, all will prove valuable in giving sources of information of an official nature which may lead to a more intimate understanding of the client. If the defendant is young it is particularly important that his children's court record, if any,

be obtained, and whether he was committed to any institution as a delinquent child, or was placed on probation for any reason.

The defendant's family history was obtained to show his early environment as far as it could be shown. No attempt was made to go further back than his parents, unless there was a special reason for it. But the name, age, nativity, occupation and present address of his father were sought if living; if dead, the age at death, and cause of death. The same information was asked concerning his mother, and also included her maiden name. If his parents were divorced or separated, other alliances were inquired into. The names of brothers and sisters, in order of birth, with age, civil condition and address were asked for. This information often would bring out abnormal family conditions of many kinds—others who had been held or might then be serving a sentence on a criminal charge; one who was in a school for the mentally defective or in a hospital for mental diseases. The birth of a large number of children, most of whom had died in early childhood, would give social information of value; or if the story told of several who had died by violence of one sort or another, clues would be at hand which would throw much light on the present problem. Incidentally the defendant might mention that assistance of more or less continuous kind had been required to feed and clothe the family, showing that dependency and poverty were more or less chronic. If the defendant said he was married, the first and maiden names of his wife, her age, place of birth, date and place of marriage, and by whom performed were asked. In the course of obtaining this information, many illuminating glimpses would be had into attitudes, sense of responsibility, love of family, citizen-

ship and relation to his immediate community. If there were other marriages or alliances which could be elicited as part of the economic history of the defendant, they were sought, too. Names, ages and addresses of children were asked for, and if dead, the cause of death. Even still-births and miscarriages were asked for as indications of possible venereal disease.

The defendant's schooling was inquired into and the training he might have had to fit him for a skilled trade or profession.

His work record was asked for in detail. If he was in his early twenties or younger, his first job on leaving school was desired. Usually the questioning began with present or most recent job, inquiring into its exact nature, name and address of firm, name of "boss" or foreman, work number if any, length of employment, amount of wages at beginning and at end of term of service; if he had left the firm before his arrest, the causes of his leaving. If he had been trained for a skilled occupation, and this job was not, a question as to why he was not in his own field might give other clues of interpretative value. He was specifically asked if he would name either his employer or "boss" as a character witness to be called in his behalf, or at least to be interviewed to obtain corroborative evidence from him which might be presented to the court in the defendant's behalf.

The same kind of data was sought for the employment covering the five years prior to the defendant's arrest on the present charge, or, in the case of a young boy, back to the time of his leaving school. Many defendants were found who never had held a job for more than a few months at most, and some whose interest in any work lasted for a few weeks. Under these conditions, it scarcely is possible to get a

connected statement of the employment, for such a state of things indicates that we are dealing with a defective personality, more often the tool of stronger and more subtle wrongdoers than criminals on their own initiative.

DISEASES

The defendant usually is very willing to tell about his illnesses, for there is a common love of finding ourselves pathologically interesting, from the time we boast of having the bigger cut or scratch than our fellows, to the neurotics of both sexes who delight in "organ recitals" as the finish of a pleasant day. So he may be got to tell of many childhood diseases of greater or less severity which he knows, or we can trace as having had definite, destructive effects on him. A mild reminiscence or so of our own may assist in breaking the ice and lead him to talk, proving our insignificance in suffering. It is so well known that scarlet fever, measles, typhoid fever and perhaps other diseases may leave serious impairments in heart, ears, or eyes, that they need not be stressed here. But it may be emphasized that such physical handicaps often do prevent the victim from obtaining or holding suitable employment, engender a sense of inadequacy and a desire for revenge against society which goes its way careless, apparently, of whether he lives or dies. Or, without any reasoned process, the sufferer may take the easiest way to supply his wants and desires and find ready aid in those who can profit from his weakness. Injuries and accidents are important to know about, especially any which have caused a period of unconsciousness, or injuries to the head and eyes. Operations should be inquired for and details of their causes, dates, and names of hospitals in which they were performed, and whether cures were

effected. Venereal diseases are generally spoken of by men with the same willingness as they use in speaking of those of childhood, and with as little knowledge of their far-reaching consequences.

When a defendant says that he has had syphilis, or gonorrhea, effort should be made to find out when and where his infection occurred, through whom, and where and from whom he has had treatment. He may have a clinic card which he will show and be quite willing that the doctor should be written to for information about treatment. Even if he should object to giving information at first, it should be tactfully sought as a matter of serious importance to him, and so that treatment may be continued while he is in prison. Women are not so willing to tell of their experiences, but an investigator who has thoroughly familiarized himself with the scientific facts concerning the transmission, duration and consequences of venereal diseases will find the obtaining of this kind of information not as difficult as it would seem to be.

As has been mentioned before, statements may have been made showing that mental defect or disease is present in the defendant, or some member of his family. It is logical to continue the inquiry in connection with the whole health problem, and venereal disease in particular. It must not be forgotten, however, that there still are many forms of mental disturbance which have no known physiological cause, and the defendant must not be given the wrong and unfair impression that any mental illness may be attributed to a definite cause. What we are concerned with is facts and not the making of diagnoses. To make simpler our problem of helping the defendant to give us what we need in order to help him, we have to interpret

and see under the statements we obtain. It does not include trespass upon the highly specialized fields of the psychiatrist or physician. Our findings must be submitted to them for further analysis. A defendant now and then will try to simulate insanity, but unless he be an exceptional actor, with a thorough knowledge of the condition which he is trying to reproduce, he must relax his efforts at some moment and his malingerer be detected. A first offender, or especially a man held in jail for the first time, may suffer sharp nervous reactions, and for the time being be in an unbalanced condition. All ailments, whether of mind or body, observed during the interview, should be reported at once to the prison physician to make sure that he is aware of the defendant's need for treatment and observation. Many jails are so poorly equipped to give adequate care that it may be necessary for the investigator to keep the overworked doctor in mind of the need of the defendant for special care. It may be necessary to report on the client's condition to the attorney and he in turn ask for a court order to permit the required treatment to be given.

While the interview is in progress, careful note will have been made of the defendant's physical appearance, his height, color of hair and eyes, complexion, condition of teeth, scars and characteristic marks of any kind, peculiarities of speech and movement, and an estimate made of his weight. He will usually be very willing to tell whether his condition is about what it usually is, or if it varies and why. He generally will be glad to say what his weight was, just prior to his arrest.

A summary statement of the interviewer's impressions of the defendant may be helpful to the attorney. These may include such observations as cooperative, uncoöperative, suspicious,

apprehensive, secretive, truthful, untruthful, loquacious, morbid, silent, depressed, defiant, moody, irresponsible, mentally defective, mentally ill, flip-pant, thinks he is being persecuted, cock-sure, a "wise-acre" who knows all about the law involved in his case, or troubled about his family and dependents. The object is to record the vivid impression which has been left on the mind of the investigator in order to assist the attorney to a clearer understanding of his client and of the present situation.

If the client does not speak English, and the interviewer cannot speak the language of the client, then an interpreter must be secured who will give a faithful account of the defendant's statements as well as translating the questions of the interviewer. The difficulties in securing a really adequate interpreter, even among those employed by the court, are often well-nigh insurmountable, but the best only should be used.

THE INVESTIGATION

When the interview is complete, if there are points which should be taken up at once, they should be reported to the supervisor, who in turn will take them up with the attorney in conference with the investigator. The matter will be adjusted, action decided upon, and the routine recording of the case be done. When the history has been typed, it will come to the desk of the supervisor for assignment to the investigators, for registering with the Social Service Exchange, and for decision as to the letters to be written to employers, character and other witnesses. "Clearing" the case with the Social Service Exchange is especially necessary if the client has a family living in the city and they be in need because of the imprisonment of the breadwinner. This is the first step in

securing assistance and in finding if the family is known to any agency which will resume its interest if the case has been closed. And they will have invaluable information concerning the habits and background of the client which may be of the greatest service in understanding his situation.

While making it a first duty to secure the data which are required by the legal problem, it must be remembered that the human being with whom we are dealing has not got into this situation as one steps into the hidden hornet's nest (or rarely is this so), but it has come about as part of a sequence of events which we must understand if we are to do more than see the present charge through to whatever legal end may await it. After that, the resumption of life in the community with the heavy handicap of a period in jail must be confronted, or a prison sentence must be served before the client will be among his fellows; under these conditions he will have been additionally handicapped by his prison experiences, and every possible assistance should be given his family to help them to endure their hard share, and to make them ready to help him during his imprisonment and when he comes out again. It does not mean that the office of the defender must assume this responsibility, but it must feel its obligation to be intelligent, and to be sure beyond a doubt that the proper agencies are aware of and working with the family to lighten their load.

Information may have to be obtained from a distant state or even from a foreign country. The procedure followed is that used by all social agencies under like circumstances, with the additional emphasis to the correspondent of the urgent and confidential nature of the communication. Such investigation is undertaken only after consultation with the

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defendant and with his consent. The kind of information obtained by the Voluntary Defenders Committee on behalf of a client has so interested a judge before whom the case was being heard that he has asked to see the entire record and has read the history himself.

The technique of separating the direct legal evidence from that of collateral or background value was made simpler by the use of four colors of paper. White was used for the face sheet, giving the same information as the card described, with space for additional entries; yellow was used for the information from the defendant; blue for the report on the investigation into legal facts, and pink for family, social and non-legal personal information. All sheets were 8.5 x 11 inches, and were filed flat in an 11 x 15 or legal size folder. Copies of letters sent out and original letters received were attached to the history and were taken to court by the attorney.

The whole field of legal-social relations is in its infancy—there are explorations to be made, methods to be devised and tried out, in the field itself as well as in coöperation with social work, psychiatry, and various other non-legal community activities. It well may be that in the pooling of experiences with the technique of investigation as it is practised in any of these professions, a critical analysis

will be developed, which will establish basic principles and make possible the study of the many varieties of method and emphasis necessitated by the particular undertaking which is being served. Such a study might be expected to yield material which would be of value to all investigating agencies. It should give definition to many vague points and disputed opinions, and develop a scientific attitude and a clear technique which might be a means of freer interchange of material, and so benefit client, agency and community.

The employment of social workers in legal aid societies is an innovation as yet which is looked on with suspicion. There is a beginning of training for the field in some of the schools of social work; but it remains still to be proven that they are indispensable to the proper functioning of a legal aid society. It will depend very largely on the competence of the individual worker to demonstrate that social work, whether in the civil or criminal field of legal aid, is a profession of worth and dignity, and not a mere adjunct to that of the lawyer. It is necessary in the broader field of legal aid that more than the immediate legal problem should be thought of; and the achievement of this community-mindedness can best be brought about by the inclusion of social workers on the legal aid staff.

New Developments in Law Schools

By JUSTIN MILLER

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THE methods of legal education and the content of the ideal curriculum for the training of lawyers have puzzled the sages for many years. Unlike the curriculum makers in some other fields, the law school executives have been faced with certain constants which have seemed to shape their objectives for them. The ever present bar examination, until only the most recent years, was so planned in practically all states that the candidate was better prepared by the coaching, cramming schools than by the thorough, intensive work of the standard schools. And even today the "Quiz Course" is as popular among graduates of Class A approved schools as among the less fortunate applicants. Another consideration, equally stifling to executive initiative is that the administration of the law is controlled by arbitrary rules of practice and procedure in the hands of judges and lawyers, who are emotionally opposed to change. A new technique in medicine or surgery requires merely a well-trained physician or surgeon, equipped with proper laboratory facilities and with a willing patient. A new technique in the law requires many years of planning for legislative action, much publicity and lobbying, perhaps a constitutional amendment, years of waiting and guessing until a test case can be carried through the courts. While on the one hand, a discovery in science may receive no publicity until it has been successfully demonstrated in practice; the world of business may travel on needles and pins of uncertainty for years, because it cannot be sure that a well recognized and established business

practice is "legal." In the same way changing social conditions produce inequalities which must go uncorrected because of the unwillingness or inability of lawyers, judges and their inexpert associates, the legislators, to understand those conditions and correct them.

LAW TRAINING

Under such circumstances the easiest method for law schools to use is to train expert mechanics in running the machinery of justice as they find it. Memorizing rules of thumbs, repeating such rules to bar examiners, shouting them back to judges on the bench; this, fortunately with some exceptions, has been the round of activity of law students and practitioners. And to this round of activity the law schools have loyally contributed. The general public has been tremendously unhappy about it all, has cursed the lawyers fervidly, but has at the same time contributed to the dilemma by insisting upon the admission to practice of an ever increasing horde of improperly trained lawyers. This has been especially marked by legislative unwillingness to require any sort of prelegal education for members of the bench or bar or any particular standards for legal education itself. In this program the shyster type of lawyer has wholeheartedly participated, insisting on the need for "democratizing" the profession, and giving the "poor boy" a chance, even at the expense of his inadequately represented client and the increasing ill-adjustment of the judicial machinery.

By way of relief from the situation,

during recent years, several large sections of lawyers' work have been taken out of their hands and turned over to various administrative boards and commissions such as the Industrial Accident Commission, the Public Utility Commission and others. In addition several other relief measures have been adopted, of the nature of Declaratory Judgments Acts and Arbitration Acts.

During the same period, outstanding lawyers and judges have begun to insist upon a changed point of view and a different type of training for the members of the profession. Much has been said and written upon the subject by such men as Elihu Root, Charles E. Hughes, Oliver Wendell Holmes, Roscoe Pound and Louis D. Brandeis. Their ideas are well summarized in a statement made by Chief Justice William H. Taft:

I have spoken little to my purpose if I have not made clear the necessity for broadening much the qualification of the general body of our judiciary to meet the important and responsible requirements that the present crisis in our community has thrust upon them. Their coming duties call for a basic knowledge of general and sociological jurisprudence, *an intimate familiarity with the law as a science*, and with its history, an ability to distinguish in it the fundamental from the casual, and constructive talent to enable them to reconcile the practical aspirations of social reformers with the priceless lessons of experience from the history of government and of law in practical operation. *How can this be brought about? Only by broadening the knowledge and studies of the members of our profession.* It is they who make the judges, who contribute to their education and who help them to just, broad and safe conclusions. (Italics ours.)

This changing point of view has expressed itself in a number of ways in the law schools. In the first place there has been an increasing insistence

on more adequate prelegal education. It is not contended that such education will necessarily insure a social background, but at least the odds are in favor of the student who has participated for two or three or four years in the training given by the Arts College. In the second place the curriculum of the law school itself has been quite uniformly enlarged to a three-year course and in a number of schools a fourth year is available. In some schools an effort is being made to select students on other bases than the formal records of college performance. So far no method for determining moral character, social background or capacity for legal work has been worked out with sufficient certainty to justify prediction of results. Some experimental work is being done. Much more needs being done.

So far as the curriculum itself is concerned unmistakable changes are taking place. In the schools of more limited numbers both of students and faculty the changes are less apparent. Much the same courses appear in the announcements as have appeared in the past. The content of these courses, however, is undoubtedly changing. A recent inquiry sent out to a number of the better teachers of criminal law revealed that most of them are teaching the course with a background of criminology. This tendency is also shown by the content of some of the new casebooks, as, for instance, Sayre's Cases on Criminal Law. It is even more unmistakably shown by such announcements as one recently issued by Columbia Law School:

Alliance with the Other Social Sciences—It is the opinion of the Columbia Law Faculty that a major defect in the present education of law students is that their studies are too much confined to an examination of what may be called legal data. The study of law as now conducted in prac-

tically all American law schools consists chiefly of an examination of court decisions and statutes. Although these decisions and statutes deal with important economic, social and political problems, the student's understanding of these problems is largely dependent upon such fragmentary knowledge as he may have acquired from the more or less general college courses which he happened to take. It is believed that much can be done to remedy this defect by a reorganization of the law school curriculum so as to focus the study of law against its economic, political and other social backgrounds. Thus, the law of negotiable instruments may be studied as a phase of banking and credit; corporate securities as a phase of finance; sales and unfair competition as a phase of marketing; marriage and divorce as a phase of the family; court procedure and proceedings before administrative bodies as a phase of government. Approached in this way, the nature and function of law would become more apparent to the student and he would acquire a better grasp and understanding of the basic processes which lie behind the law. With the view to accomplishing this result, a number of important changes have already been made in the curriculum and materials are now being assembled for other courses to begin next year.

This is particularly interesting in view of the published report of a few weeks ago that Columbia proposed to abandon the case-method, originally given vogue by Harvard, and now in general use in all schools approved by the American Bar Association and the Association of American Law Schools. In correcting this erroneous report Dean Smith of Columbia has indicated that Columbia proposes to give its law students more case material rather than less.

NEW COURSES

In schools, where larger full-time faculties make possible a richer collection of courses, new titles are appearing in the announcements, of

which the following are both typical and suggestive:

"Law in Society," "Legal Method," "Law of Credit Transactions," "Administrative Tribunals," "Criminal Law Enforcement," "Accounting Method," "Business Organization," "Development of Legal Institutions," "Corporation Finance," "Foreign Concepts of International Law," "Seminar in the Law of Marketing," "Problems in Statutory Systems of Trusts, Powers and Perpetuities," "Investment in Corporate Securities," "Legal Problems of International Finance and Commerce."

Perhaps even more important than new course titles and new contents is the fact that in some of the schools men representing other techniques, such as political science, economics, sociology and psychology, are being invited to participate in giving such courses. In some instances these men have been appointed as members of law faculties, in others they have been associated in coöperative seminars or have given series of lectures on related subjects. Several law schools have undertaken programs of research and some have established service agencies in connection therewith.

At Columbia, the Legislative Drafting Bureau "has been engaged in the preparation and the drafting of bills for private groups or for legislative committees. The Department acts as legislative counsel and its work is not primarily research but practical." Columbia has also under way research projects in familial law, corporate development, the administration of prosecutions in criminal cases, commercial bank credit, the process of valuation "in rate making, taxation, corporate organization, damages and other fields of the law." This work is being done by members of the law faculty in collaboration with representatives of other appropriate departments in the University and with persons engaged in

administering the various laws. At Harvard, a very ambitious program has been outlined, an endowment of \$2,250,000 having been specially assigned to research work. The fields in which work is to be done are primarily criminal law, legislation, judicial organization and administration and comparative law. At Yale work now under way includes a study of procedure and a study of judicial organization and administration in coöperation with the Judicial Council of Connecticut. The Yale plan contemplates "that each third year student shall devote a fair portion of his time to special work of investigation under the guidance of some member of the faculty." At Michigan, in coöperation with the State Procedural Commission, "A thorough study of the rules of practice, of the state" has been made "with a view to reorganizing them in accordance with modern needs." The subject of court organization is also being studied. West Virginia Law School has undertaken an interesting program of joint research with the State Bar Association "on state legal problems" in which presumably the whole faculty will participate. Less extensive work along the same lines has been going on in a number of other states.

Johns Hopkins recently announced the formation of an Institute for the Study of Law, in the following terms:

The general objective of the Institute will be to carry on the study of "Law in action," of the human effects of law, in the belief that studies of this character will ultimately, if carried on in a thoroughly scientific spirit and with as great objectivity as possible, result in improvements in the administration of justice. It is the immediate task of the Faculty to formulate a detailed program for accomplishing this purpose, and to determine what portions of it shall first be carried out. It is assumed

by the group that any such program must be tentative in character and subject to continual amendments as experience is accumulated. The training of students will be undertaken only in so far as it promotes the study of law along lines indicated.

Many smaller pieces of research work are under way throughout the country, usually as a result of the initiative and social far-sightedness of individual members of law school faculties. To a greater or less extent each of them is being participated in by law students.

SOCIAL RESEARCH

In addition to the work which is being done in the law schools or under the supervision of law school faculties, there has been also an increased participation in social research directed by other agencies. This has included large scale participation in the work of such groups as the Social Science Research Council; the American Academy of Political and Social Science; the National Economic League; the Commission on Uniform Laws; the American Institute of Criminal Law and Criminology; the American Judicature Society. In addition, the social point of view has found increasing recognition in the work of organizations originally purely professional in character. Examples are to be found in the present-day programs of the American Law Institute and the American Bar Association. Law school faculty members are largely responsible for this development. The same can be said of the work of the Association of American Law Schools.

Law school faculty men, and students as well, have participated perhaps more than any other group in the various crime surveys which have been made in Cleveland, Missouri, Minnesota, Illinois, Boston and elsewhere. Coöperative work has also taken place between law teachers and representa-

tives of the National Association of Legal Aid Organizations, the National Probation Association, the National Crime Commission, State and National Conferences of Social Work, the United States Census Bureau, the Interior Department of the United States and others.

That such interests and such experiences are reflected in classroom instruction there can be no doubt. The contention of the old school lawyer and of the proprietary law school sponsor, that the best teacher is a judge or practicing lawyer, is based on the assumption that such men are more practical in their approach to the law and more understanding of its purposes. This is sometimes true. Generally such part-time instructors are so driven by their work in the office or the court room that they have neither time nor strength to prepare for class work or to keep abreast of newer developments in the law. Many of them teach and apply the law without any conception of its purposes or curiosity about them. On the other hand, a full-time law teacher, whose interests take him into such fields as those mentioned above and whose major objective is the determination of the purposes of the law and the teaching of it in such a manner as best to accomplish those purposes, is by far the best teacher and the one from whom we can expect most in accomplishing the ends described by Chief Justice Taft. From law schools staffed by such men we may expect an increasing product in the form of scientific laboratory results in the social sciences, especially in the application of law to life. What is far more important, we may expect from such schools an increasing number of lawyers properly equipped for such an administration of law as may more nearly approximate justice.

So far as the training of the law

student is concerned, particularly with reference to bridging the gap between "the law in the books and the law in action," the most promising recent law school development is that of the Legal Clinic.

THE LEGAL CLINIC

For many years it has been assumed that the transition from law school to law practice must necessarily be a difficult one. One of the traditions of the profession is that there should be, normally, a starvation period, during which the young lawyer should serve an apprenticeship as a briefing clerk, or, in the event that he opens an office for himself, he should expect few and impecunious clients. During this period the young lawyer is expected to, and does, work out an adjustment for himself. As a matter of fact, during the period of disillusionment as well as starvation, he learns not only the methods of the successful, ethical practitioner, but the tricks of the shyster as well. The latter, frequently as a matter of cruel necessity, strips from him all of his ideals, most of his humane social point of view and makes of him a third-rate representative of his profession. The law schools and the lawyers as well have long realized the nature of this problem. Rapidly congesting centers of population, increasing complexity of industrial and social conditions and loss of control by the organized bar over its rapidly increasing membership have intensified the problem many fold. In the medical and dental professions this difficult transition has been made easier by clinical experience. Now the legal clinic has begun to develop in a few of the law schools.

At first tentative experiments were undertaken in which some of the law students voluntarily assisted the local Legal Aid organization in the handling

of its cases. This was the case at Harvard Law School. The next step came in requiring the third year law students to give assistance under the direction of the Legal Aid attorney who was attached to the staff of the Law School for that purpose. This was the procedure adopted at the University of Minnesota Law School. Finally in some of the schools the work has been organized on a true clinical basis, with a director in charge, clients coming directly to the office of the clinic and their cases being disposed of in practically the same fashion as in a lawyer's office. This is the procedure followed at the University of Southern California School of Law, and Northwestern University School of Law. Legal clinics have also been established or are in process of establishment at the following law schools: Yale, Cincinnati University, Washington University and Tulane University.

In addition to providing a real social service to the communities in which they are located, legal clinics perform an important service in the training of lawyers and in bridging the chasm between education and practice. The student attorney takes very seriously, indeed, the problem of the legal clinic client; the artificiality and unreality of moot court cases disappear; the temptation to manufacture evidence, coach witnesses and change the facts, so well known in moot court work, becomes very remote in the face of real life situations, stranger than fiction, which he is called upon to solve. The tricks of the shyster lawyer appear in their true light; the student, under no pressure at all to make fees, in fact under obligation to accept no compensation, carries through on the highest possible basis of professional ethics. In the work he meets a wide variety of public officials, lawyers, and representatives of social agencies, and in the cases which

he handles himself, together with those which he discusses with his fellows in the clinic conferences, he gets a more intimate contact with practice, especially in its social aspects, than many lawyers do in years of practice.

The cases which come to the legal clinic cover practically every phase of law except those branches which have to do with specialized interests such as Interstate Commerce Commission cases, income tax cases, inheritance tax cases and admiralty. Most general practitioners have nothing to do with these branches either. The clinic practice is essentially that of the general practitioner. But the emphasis is particularly a social one because the persons served are necessarily charity cases.

A NEW EXPERIMENT

Attention should be called to one further experiment which has been started this year at the University of Southern California School of Law, which has not yet gone far enough to have produced definite results but which is at least promising in character. This experiment consists of the establishment of a Bar Association made up of the members of the student body of the Law School. So far as formal organization is concerned it has been substituted for the student body organization which previously existed. The Association is modeled after the self-governing State Bar of California, recently created by legislation in that state. The control of the Association is in the hands of a Board of Governors; sections have been formed for work along the same lines as that of the State Bar; arrangements have been made for the distribution of copies of the *State Bar Journal* to each member of the Association, and consideration is being given to the problems which are being worked out by the State Bar. Every

member of the student body is a member of the Association, but participation in its work is entirely voluntary. It is hoped that the law students will find in the activities of this organization a substitute for the extra-curricular activities of college life in which they usually indulge. It is further hoped that the study which is being given by the law students to the administration of justice will vitalize the law for them and will make of them, after their admission to practice, more interested and qualified participants in the administration of justice.

Splendid coöperation has been received from the members of the bench and bar both in the work of the sections and in the larger general meetings of the Association.

In conclusion it is well to note that along with the development of this social consciousness in legal education, is coming a changing point of view regarding admission to the bar. There is every reason to hope that twenty or thirty years from now the bench and bar of the United States may have dressed up its ranks and reassumed its social leadership.

The Study of Law in Schools of Social Work

By KENNETH L. N. PRAY

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NO area of knowledge or activity in which human relations are involved can be wholly foreign to the interest and understanding of an ideally qualified social worker, for there is no area of life into which the social worker's responsibilities may not lead. The task of the school of social work is to help students to select, adapt, interpret and assimilate, through experience, those elements in this limitless range of pertinent material that are indispensable in the adequate professional equipment of a social worker.

POSSIBILITIES

The possibilities are infinite. Problems of legal rights and relations abound in the experience of practically all social workers, as complicating elements in the networks of adverse circumstances faced by their clients. But so do problems of health and social medicine; of mental health, as a factor in social behavior, calling for psychological and psychiatric knowledge and treatment; of educational principle and practice; of economic organization and adjustment—to mention only a few outstanding fields, in which organized scientific material is available to illuminate and guide the social worker's practice. No social worker should be totally unaware of fundamental points of view, of accepted fact, of present trends and problems in all these fields. But how much exploration in any of them can be regarded as an irreducible minimum in an adequate program of training for social work? Or, to speak in terms of maximums, rather than

minimums, at what point in any of them should social work training stop, lest it overstep professional boundary lines and threaten to break down the protective barriers that have been raised against irresponsible or unskillful use of highly technical tools?

The schools of social work are still struggling with these questions—which is not surprising in view of the fact that nearly all of them have come into being within the past fifteen years, and the oldest is about to celebrate its silver anniversary. With respect to law—the understanding of its principles, procedures and content, in their relation to social work problems and practice—and its place in the training of a social worker, there is even greater diversity than with respect to certain others of these “background” or “borderline” fields, but there is evident an awakening of interest in which certain trends of purpose are discernible.

ESSENTIAL ELEMENTS

In this field, as in the fields of other sciences and arts related to social adjustment, the developments of social work training have been in something like this order: First, a realization that at certain specific points in social work practice it is necessary to use legal instruments and procedures: a knowledge of certain definite parts and processes of law in particular communities is therefore an essential element in the technical equipment of a social worker. Courses in “social legislation” and “governmental administration,” with

emphasis upon the particular provisions and procedures of law that are immediately available as resources in handling particular problems, reflected in this field the dominant note of all social work training at the time, the acquisition of specific knowledge and techniques for the performance of specific tasks.

The second step, in this field as in others, was a search for broader basis of understanding of the underlying principles that governed the development and operation of these legal tools to turn, in the discharge of their own responsibilities. What can be expected from the law, as a resource in social adjustment, and what cannot be expected? Why do legal measures fall short, at some times and places? Why are public officials, the administrators of law, not more helpful than sometimes they seem to be? What principles can be relied upon to mark off the area of social work that can be safely entrusted to public authority, from that which remains the proper province of so-called private agencies?

These problems have become more and more acute as the functions of public agencies have steadily increased. And not the least significant additions to the scope and resources of social work have been those involving an extension of the realm of law and governmental authority. Public health administration; juvenile and domestic relations courts; mothers' assistance; probation and parole; the creation and development of public welfare departments, state and local; segregation and special education of the feeble-minded; the acceptance of the visiting teacher or school counselor as an integral part of the school organization; public recreation programs; workmen's compensation and employers' liability; shortening of the work-day and regula-

tion of working conditions; protection and extension of the rights of women and children—an imposing list of changes fundamentally affecting social work objectives and methods can be enumerated. Not only do they add content of fact to be mastered. They impose a new responsibility upon the social worker to be aware of possibilities and perils, and to contribute to the constructive and consistent development and operation of this vast machinery of social adjustment.

Less attention can be paid to the details of law and of legal procedure, and more to the general community background and setup within which law operated. It was inevitable that this background, furthermore, should be viewed from the standpoint of a new interest in, and appreciation of, the individual, in the light of a new psychology and psychiatry. The apparently predominantly coercive, standardizing functions of the law did not fit in readily with the new understanding of the way in which individual adjustment and success are achieved. There followed, therefore, a period in which social workers and social work training were preoccupied with problems of individuals and voluntary organization of community resources, and were content to leave the law to its own devices, using it as rarely as possible and therefore devoting little consideration either to its principles or its details.

A SOUND WORKING BASIS

A third period is undoubtedly opening, in which social workers, surer of their own techniques, more aware of their own limitations, more humble in the face of massive social movements, intrenched institutions and group habits, return to a serious study of this historic and powerful factor in the social adjustment of human beings.

At first, again, their interest had special reference to particular situations and problems—to make their own professional efforts more promptly and completely effective—but now, there develops a more vital appreciation of the importance of finding a sound working basis for that coöperation which will contribute both to the definition and firm foundation of social work, as a serviceable and acceptable community resource, and to the discovery and upbuilding of the social values in the law itself.

The growth and vitalization of the legal aid movement has undoubtedly contributed to this reawakening of concern for an understanding of, and coöperative relationship with, the institution and profession of the law. The new era was heralded in a number of the schools of social work by brief courses presented by representative lawyers associated with legal aid organizations, attempting to acquaint social workers with the elementary facts which should guide them to seek legal advice and help in certain common situations. The purpose of such courses was chiefly protective—to avoid, that is, awkward and dangerous use or neglect of the law by ignorant and inexperienced laymen.

But more and more these courses have developed into, and have been supplemented by, more thoroughgoing studies of wide areas of the law and specialized studies of specific fields—criminal law, domestic relations, legal protection of the child, labor law, the poor law, and the like. More and more, also, emphasis has been given to underlying principles of the law and its history, in an effort to build up the basis for a consistent point of view toward it and toward its relation to the general principles of social work. While by no means all the schools regard this latter development

as either necessary, desirable or possible, under the limitations of time, teaching personnel and effective demand from the field, there is a growing feeling, reflected in recent announcements and even more in recent correspondence, that future development will follow this general direction.

EDUCATION

Writes the director of one of the larger schools:

We are making some headway in connecting up the practice of medicine with the practice of social work. We ought to do the same thing with reference to the legal profession.

This is to be interpreted in the light of an earlier remark that members of the faculty are "particularly interested in getting into the curriculum in one way or another some consideration of the *relationship* of law and legal procedure to the practice of social work."

From another large school, in describing certain specific courses on criminal law and "social work and the law," the instructor reports that in both he finds it desirable to introduce the matter with lectures of "historical and sociological character" showing how and why the law came into being as an agency of social control.

In another school, a course in "social law" is given by a distinguished jurist, with the effect, writes the director of the school,

of bringing about a greater understanding between practitioners of the law and students of social economics.

Writes another director:

I feel very emphatically that social workers should be given some knowledge of law and legal procedure. Such courses, however, in my opinion should not be courses designed for professional practicing lawyers, nor should they necessarily involve the careful study of state codes. What we

try to do . . . is not to make students embryonic lawyers, but to give them some conception of certain legal limitations, rights, principles and procedures which will enable them to understand the situation their clients are in. . . .

Still another:

. . . very little more is attempted than to show the student some connection between the law and the life from which it grew. . . . We do not aim to turn out students who are well acquainted with the details of the law so much as to send out those who have grasped the principles and are thinking about the relation of social work to the law.

These, then, may be said to be the trends in the schools of social work, in their renewed effort to refresh and invigorate social work, through its recruits, with a vital concern for its relationships to other social institutions:

1. Open to students, in connection

with their own vital practical experience, the doors that separate them from others who exercise the general authority of the State, and help them to appreciate the reciprocal and integrated contributions of these two forces in protecting and promoting the social well-being.

2. Help students to know, and to use wisely and economically, the resources and processes of the law in relation to the particular problems of individual human beings with whom they are dealing.

3. Help them to see social work, the law, and every other social institution in perspective and in proportion, as parts of a whole social process, which they are obligated, as progressive professional persons, to seek to understand ever more thoroughly in order that their own service may make the largest possible contribution to an integrated and intensified forward movement.

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New Developments in the Departments of Sociology in Relation to Courses in the Law School

By JOHN LEWIS GILLIN

Professor of Sociology, University of Wisconsin

THE historic relation between law and sociology needs to be kept in mind if one is to arrive at a sound conclusion concerning the relationships between sociology and law in our American universities. It must not be forgotten that the law schools arose in response to the need of an institution to train lawyers. Until law schools were organized, the lawyer like the doctor, was trained in a practitioner's office. He prepared to practice law by "reading law" in a lawyer's office under the guidance of a practicing lawyer. The chief end of the lawyer was to advise his clients with relation to the intricacies of the law in practical situations. Some lawyers in the due course of time became judges. They were not trained for that position, however, except as they learned by practicing in the courts and observing the judge function. When the law schools arose they were simply substitutes for this apprenticeship system. As professional schools to train lawyers for the practice of law they have remained to the present time.

GROWING APPRECIATION OF RELATIONSHIPS

However, with the development of the complexity of our society and with the growth of social maladjustments there has been a growing appreciation of the relationships between the law and the conditions in the social body. Social changes and such economic developments as have come about in industry coincident with the industrial revolution are instances. The devel-

opment of intricate new forms of economic organization like the corporation has put a strain upon the old theories of law. This situation demanded a readjustment. The increase of divorce, the breakdown of the family, the employment of women, the increase of juvenile delinquency and many other social changes have made necessary new developments in statute law to meet the conditions consequent upon these changes.

Furthermore the development of sociology which studies the origin, development, organization and processes of society and the disorganization consequent upon economic and social change have raised above the horizon of consciousness many new problems.

In the meantime the courts, acting as interpreters of the law, have had to adjust old theories to the changed conditions and to invent new theories on which to base decisions which would make the law adequate to the needs of a new day. Sociology has helped to explain why certain changes have come about and has assisted to an understanding of the fundamental principles which underlie social maladjustment. The law, on the other hand, has had the practical task of meeting these maladjustments in positive fashion in line with the fundamental principles of law as it has come down from the past. Historically the court and the practicing lawyer have looked to precedent or to a principle of common law which came to us from English experience. Only in the face of a situation which could not be met by an appeal

to precedent or to the reinterpretation of an old principle have new principles been established either by statute or by court interpretation. Historically the law, therefore, has been more or less conservative while sociology as a younger discipline has been free to look the facts in the face and interpret the findings in accordance either with philosophical presuppositions or without presuppositions. Recently, however, those interested in the law have begun to ask themselves what are the social results of our statutes and our court decisions. The positive scientific spirit has begun to enter into the study of the law especially as to its results. The same scientific attitude has been growing in sociology. Hence the question arises as to whether there is not possible a closer approach between sociology and the law.

SOCIOLOGY AND LAW SCHOOLS

In a recent inquiry sent to the representatives of fifty-four colleges and universities an interesting situation as to the relationships between departments of sociology and law schools was revealed. Four questions were asked in the inquiry. (1) What courses are now being given jointly by the Department of Sociology and the Law School? (2) What courses in the Department of Sociology are required for law school students? (3) What courses are there in which considerable numbers of law school students or those intending to go into law register? (4) What courses in the law school are open to sociology majors?

The returns showed only one university in which courses were given jointly by the department teaching sociology and the law school. Two others indicated that such courses were planned. It is apparent, therefore, that at the present time there is very little direct relationship between the professors in

sociology and the professors in the law schools in giving joint courses. It will be interesting to see the results of such experiments.

On the second question the study revealed seven universities which require certain courses in sociology in the pre-law work, that is, there are seven institutions where anyone who is intending to go into the law school in that institution is required to have certain sociology courses. Nine others recommend certain sociology courses.

The courses which are recommended and required are as follows: twelve universities report a large or a considerable number of law students in their courses in criminology. Six say that a few may attend classes in criminology and one other advises its students to take this course but not before having had the law background. The general or introductory course in sociology is attended by a number of students intending to go into the law or who are actually in the law school in five universities, while six others say that some attend this course. In two universities the course in Child Welfare has a number of pre-law students. There is only one university which reports law students in each of the following classes in sociology: Juvenile Delinquency, Social Pathology, Poverty, Problems of Rural and Urban Life, Social Behavior, Science of Society, Social Problems and Socialism. No one was willing to risk a guess at the number of students going into law who take sociology courses. On the whole only twenty-two universities report courses taken by prospective law students. In twelve of these a "considerable number" take the course in criminology and in six a few take the course. In four a considerable number take Child Welfare and in eight a few take this course. And in eight others a few take certain other courses in

sociology. In general it may be said that only a small fraction of the students in law schools have had one course in sociology. This situation may be good or bad according to one's point of view. If a lawyer or a judge should understand whatever sociology can teach regarding social relationships, then it is a bad situation in those institutions in which the law professors take no interest in the social implications of the law.

Dean Pound says that he has always looked upon jurisprudence as a sociological study and has taught it from that point of view. On the other hand, if the law school is to be looked upon as an institution to train practicing lawyers, and if most of the lawyers' duties pertain to economic affairs, then it is a question whether any understanding of the nature of society is necessary. As a matter of fact it is probable that most of the men going into law look upon their future profession as one which does not require any special knowledge of the processes by which social life goes forward any more than it is necessary for them to understand geology, mathematics or general history. If, however, the lawyers' and judges' functions are touching social problems at an ever increasing number of points, and if the law represents organized social endeavor to adjust the legal machinery of society to social needs, future lawyers perhaps ought to get an understanding in some way about the interrelationships of legal machinery and social processes. If they can be got in the law school, very well. If not, it is a calamity that the future lawyers are not taking sociology in larger numbers.

On the fourth question the returns were meagre. In six institutions the law courses are open to sociology students. In only three of these, however, are many sociology students

found in law classes open to them. In six other law schools some of the courses are open to sociology students such as the course on family law and the course on criminal law. In three others certain courses are open on petition by the students.

Since the law is a recognized method of adjusting social relationships it seems a pity that more sociology students, especially graduate students, are not taking certain courses in law. They should know what can and cannot be done under our present legal system. They ought also to know the fundamental principles which underlie American legal systems. Otherwise they are likely to make proposals which cannot be carried out. However, there were certain suggestions that lead me to believe that one of the reasons why sociology students are not taking more courses in the law schools is because the law schools look upon these courses as training courses for the practicing lawyer rather than courses that would be of interest to any intelligent person who wishes to understand one great branch of the machinery of government.

In only a few cases did the professors discuss the reasons for the present situation. The usual reason given why so few of the students in the law schools take sociology courses is that a student who enters the law school has had his more general education before he enters law school. Furthermore so strenuous is the course in the law school that the student has little time for any except the required work. One answer says:

Our law school has pursued a course designed to train the student in the knowledge of the law as it is. In general our policy here is that of pretty strict confinement to the respective college or professional school as the pre-professional period is past.

Professor Roscoe Pound says:

I feel pretty strongly that it is the spirit in which professional studies are taught which counts rather than formal courses and paper programs.

He adds:

I have advocated sociological jurisprudence vigorously for more than twenty-five years, and I am a firm believer in treating jurisprudence as one of the social sciences, and in all that the sociological jurists stand for. But the three years of a law school curriculum are little enough in which to turn out competent lawyers. We endeavor to assure a proper foundation in the social sciences through admitting only college graduates with approved college records. For the rest we conceive that teachers properly trained and with the right attitude toward legal questions ought to be able to deal with the social and economic aspects of questions of law as they arise in connection with the problems dealt with in the curriculum without the introduction of any formal courses.

He says that while he does not have the exact figures he believes that the students who come to the law school from Harvard College, or those intending upon graduation at Harvard College to enter the law school, will all have taken at least the course in *Principles of Sociology*.

In Michigan and in Tulane Universities a man in the law school and a man in sociology are coöperating in a study of crime. From the survey, therefore, it appears that coöperation has begun between sociology and law chiefly in criminology and in the field of the family. In addition in a few universities it appears that there is beginning a rather close connection between certain men in the law school and certain men in sociology in the giving of joint courses. For the rest the only connection seems to be exposing men who intend to go into law to certain sociology courses and to a less degree permitting certain students

in sociology to take certain law courses as electives.

TENDENCY TOWARD CLOSER CONNECTION

Without question the present tendency is in the direction of a closer connection between law and sociology. The legislator, and he is more frequently a lawyer than a member of any other trade or profession, ought to be acquainted with social psychology. How many laws are passed in our legislatures which take no account of the customs, traditions and group reactions which social psychology studies. How frequently it occurs that no measure has been taken of the results of similar laws which have stood on the statute books and have not been effective. In the criminal field how little are the results of modern criminology and penology taken into account. Criminal law at the present time is under the dominance of the classical theory of penology that such and such a crime merits such and such punishment and can be prevented by legislative adjustment of the penalty to the crime. How unscientific is modern legislation in this respect is shown by the fact that in neighboring states the penalty for first degree robbery may be twenty years and in another state five years; that the penalty for rape in one state will be life imprisonment and in another ten years. The present situation can be described as nothing less than chaotic. A knowledge of criminology would prevent the present farce in criminal law.

On the other hand, how little students in sociology know about the present legal situation including common law, statute law and court interpretation, concerning family relations, the care of children, the handling of juveniles, the control of family deserters, marriage, divorce, the mentally defective and diseased and the criminal. It would

seem that for at least graduate students in sociology greater opportunity ought to be provided in some way so that they should know the exact situation with respect to the legal status of these various classes of individuals whom the law attempts to regulate. Before they are in a position to criticize our laws and the interpretations of our courts they need to know more about the

fundamental principles upon which legal institutions rest. The time may not be ripe for a thorough reorganization of the law school courses and the sociology courses to bring about such an understanding on both sides. However, it is encouraging that certain sociologists and some professors of law are giving serious consideration to the problem.

The Legal-Social Field in Practice—the Field in a Large City

By W. BRUCE COBB

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WHILE the legal aid client does not in most instances come to a legal aid agency direct from a social agency, there is nonetheless a large proportion of legal aid cases where the individual client or his family presents a social as well as a legal problem. This is less often true in petty wage cases than in the more complex domestic relations cases, but by and large the kind of client who comes to a legal aid office frequently has been, is, or will be the client of a social service agency—usually a relief or family case work society. This is conspicuously so in a large city.

OPPOSITE APPROACHES

So far, then, as legal aid and social service deal with the same people, we find a part of the population subject to the practical operation of both legal aid and social service. In dealing with these people, is organized legal aid to disregard the social aspect any more than is organized welfare work to disregard the legal aspect? Obviously, if this be done, lack of coöperation, misunderstanding and actual conflict between legal aid and other welfare work will result.

An examination of the statistical tables compiled by the National Association of Legal Aid Organizations on the basis of reports received from its member organizations reveals a varying lack of direct contact between legal aid agencies and social agencies. In 1926, out of all legal aid cases recorded, there were 7.2 per cent referred by

social agencies to legal aid agencies, with wide variations according to city. Of cases referred to social agencies by legal aid agencies not only was there a vastly smaller percentage of such referrals, but there was an even wider variation amongst individual agencies and localities. Doubtless many informal relationships or referrals were not listed. Nevertheless, the general tenor of these figures is significant and sets out a warning that something is deficient in practice in the legal-social field in many large cities. Indeed, many legal aid workers and many social workers know this without the need of statistics.

Each force for social betterment—legal aid on the one side and social welfare on the other—must inevitably be aware from time to time of the other. Each must be aware that each needs the service of the other. If not, neither can do a well-rounded job; indeed, may at times be totally thwarted in seeking to bring about the result which each is most interested in achieving.

It is unavoidable, however, that each of the two classes of agencies should approach a given person and his problem from quite a different standpoint. After all, the legal aid office is a law office designed to secure legal remedies based on legal evidence and according to the requirements of both substantive law and procedure.

The social agency, on the other hand, sees in each of its clients a human problem and not just a legal

one. To be sure, it must in readjusting or rehabilitating the client within the social fabric, avail itself of such service and resources as the community affords, be they legal, medical, spiritual or material. But there is this difference. The social agency at its first contact diagnoses its client in the entirety of the human problem, whereas, the main concern of the legal aid agency is to discover and appraise only the person's legal problem.

Consequently there is a marked difference in approach. Whither has this led? Whither should it lead?

THE LEGAL AID APPROACH

A young maid-servant comes to the legal aid office alleging that her wages have been unjustly withheld by her employer. The legal aid lawyer knows nothing about her. On questioning her, or on investigating her claim, he finds that she quarreled with her employer over some petty point of personal pride, broke some dishes in a tantrum and abruptly departed, leaving her employer in the lurch. The lawyer then advises her that her case is without merit, legal or moral, and that he can do nothing for her. Truly, he can do nothing in the way of a legal remedy. He is running a law office. Legal justice is not either deserved or obtainable. Does his duty end by merely dismissing her? It may be far from true that he can do nothing for her. It may be that she is mentally unstable, that her condition is aggravated by some remediable physical ill or family friction, and that she can be greatly helped by the right treatment and perhaps has some valuable talent that needs only well directed vocational training to develop.

The lawyer may say that these things were not discoverable on the surface, that his function was only to see that she got legal, not social justice

or adjustment, and finally that he was too busy with a long line of applicants to delve into her personality so as to find some person or agency equipped to deal with her. But suppose, as not infrequently happens, a plausible client relates an apparently good case, and the lawyer after much waste of time finds he is dealing with a parôled insane asylum inmate or a legally committable psychopath. Here if the legal aid lawyer had at the start invoked a social service instrumentality, viz., the social service exchange, he might often be saved both time, annoyance and embarrassment.

His next case may be that of a woman seeking a separation from her husband. Here, perforce, the lawyer must marshal facts both of legal weight and of social significance, for the simple reason that the judge who is to pass on the separation petition will wish all surrounding facts to get the true family situation in order to lay the blame. Mental condition, behavior, ability and fitness to care for the children of the marriage figure largely.

Midway the wage case and the separation case is a wide range of other sorts of cases where legal facts and social facts or conditions more or less coincide or overlap. Within this wide realm are annulments, adoptions, custody of children, personal loans, instalment contracts, insurance, workmen's compensation, negligence cases, real estate and mortgages, rent and eviction, recovery of personal property, interests to estates, and so on through a wide category of legal situations.

Some of these, like the wage case, demand of themselves little knowledge in the way of the individual's troubles, handicaps, infirmities and environment. Others entail more social facts in order to adjust the legal difficulty, so there is thus more or less necessity to invade the personality and life of

the client in order to make out a legal case. If there is much revealed then the lawyer is often put on notice that the social requirements of the individual may be vastly more important in their need of adjustment than the technical requirements of the particular law case and its adjustment.

Experience in a great city shows that when brought face to face with some easily comprehended visible need, such as impending starvation, the disclosure of disease or mental abnormality, the legal aid lawyer will act just as would any other socially unskilled but right-minded person. He may or may not know of the appropriate agency, public or private, to which to refer such a person. Should his agency be part of or closely in touch with a family case work or other agency, he may act far more understandingly. And, of course, if he or anyone in his office is trained in social service so much the better, for he can then not only expertly inquire into any social needs which he has reason to believe exist, but expeditiously refer that person to the proper agency.

Some needs are, as pointed out, extremely evident and simple. For example, the complainant in a divorce action was forced by her poverty to seek shelter with a relative in a distant city pending the divorce action. When the case came on for trial and her presence was required, she had neither the money to travel nor to pay for lodging when she arrived. She was harassed, half sick and on the verge of losing her case and with it a chance to begin a blasted life anew.

The legal aid agency could not furnish the funds or shelter. A young woman lawyer employed by it who had had social training and knew the social service resources of the city secured transportation and shelter for her and then pitched in and won the divorce

suit for the woman. The legal approach was not enough. Fortunately here, both the legal and social approach were happily blended.

THE SOCIAL WELFARE APPROACH

It is the family case work societies that have more legal problems confronting them than other welfare agencies. On analysis one would expect this, as they are the ones that deal most broadly and at the same time most intimately with both the individual and the family problem. From close touch with a great family agency, the writer sees daily the outcrop of cases with their legal problems of wide range. What is true in the family case work field is true in a lesser degree of other welfare agencies. The statistical classification by another great urban agency of case work phases shows a high percentage of actual or potential legal problems.

Taking the viewpoint of the social worker of a family case work agency, which is largely that of other social workers, we have already seen how deep is the concern of the worker with the individual personality and lack of adjustment of the client to the social structure. If the economic situation is pressing, the worker thinks first in terms of relief, and then of the rehabilitation of the person in the family and the community. She then makes her diagnosis, with the help, perhaps, of a mental and a physical examination and other aids.

She uses "social evidence" for her facts, and is trained to that and not to "legal evidence," as is the lawyer. Like the lawyer, she may be bound by ethical considerations, both as to her case handling and confidential communications. Like the lawyer, she may obey certain maxims of social work as he does legal principles. On the other hand, she is not trammelled

as is the lawyer in fitting the case into a legal pigeon-hole. As before stated, she deals with the entire human problem that her case presents and not with a single cause of action, whether that be a wages recovery or an absolute divorce.

Since the legal aid lawyer with whom she may come in contact perhaps has no perception of social work, there is thus a widely varying standpoint especially if the social worker has had no insight into law.

But the social worker must learn to use her resources to the best advantage for her charge, whether these be medical, psychiatric, vocational, institutional or legal. It is important to know when a legal question is woven into a social service case. How far the social worker herself may deal with it, even though intelligent and knowing basic legal principles, is a serious matter for her client. To attempt to adjust even a simple appearing case may well lead her onto dangerous ground.

Thus the acceptance on a social worker's initiative of a doubtfully phrased promissory note jeopardized a large sum of money. Reluctance to coöperate intelligently with a surety company on a criminal bond forfeiture put a poor widow in danger of losing a small bit of real estate by want of not knowing that the surety company was actually trying to help her in getting the forfeiture "lifted" by the court. Improvident settlements of a negligence case furnish a trap for the unwary through want of honest, expert legal advice in that kind of case.

The social worker is sometimes beguiled into giving a sea-lawyer's opinion because of her impatience of lawyers, with their technicalities and legal quips. A bit of evidence convincing to the social worker may be worthless to the lawyer. An ethical

consideration may deter him that presents no question of professional ethics to her. A matter of court costs, a clash between natural justice and man-made law may cause the social worker to revolt against the latter, especially if it blocks a good piece of case work. Lastly, the frequent inclination of many lawyers, legal aid and others, to see the matter just as a law case, may complete the social worker's discomfiture. Not all the blame for these clashes can be laid at the lawyer's door, however. He may appear to the social worker as the personification of the law's shortcomings and delays, and as "a limb of the law" seem to her as blameworthy as the system of which he is a part.

She may forget that law exists as a measuring stick for all men to order their conduct by in like circumstances. Law cannot be entirely flexible to the case in hand, and a straight unbending line may form a necessarily arbitrary separation from what can and cannot be done.

Again legal aid agencies are notoriously lacking in facilities such as ample personnel, funds and equipment, just as a clinic may need an X-ray machine and not have the money to get it or an expert to run it, or a family relief agency be cramped by want of funds.

Thus it happens that legal aid so often seems not to serve social welfare, because of the attitude of the social worker, its own lack of means and legal limitations. Aggravating all this is the frequent want of understanding of the legal aid agency of social welfare, especially of family case work. Then, where the legal aid agency makes the first contact we may find inability or disinclination on its part to search out an appropriate welfare agency and refer to it law clients who, in fact, need far more than legal justice. This to a

highly trained family case worker is inexcusable. This latter, of course, is more apt to occur in large centers where social service is diverse and complicated.

Part and parcel of this want of understanding and common effort in the social-legal field are many courts and judges. For it must be realized that many courts, especially the so-called inferior courts, are quite truly direct instruments of legal aid in so far as litigants without counsel are able to have recourse to them and receive justice in relatively simple form. This is conspicuously true in our so-called socialized courts, such as family courts, as well as in small claims courts and to a large extent in workmen's compensation tribunals.

In the last named, our laws sometimes relax the stringent rules of evidence. In family and children's courts there is strong reason for doing this and to admit so-called social or hearsay evidence in the form of dependable social case-work reports or verbal statements by social investigators. Possibly the chancery powers conferred on some of these courts give some latitude in the matter of evidence, though it is always dangerous in the event of a review by writ or by an appeal for the record to be too informal. Certain it is, however, that when the adjudication is made, these courts, as may indeed any criminal court that proceeds even under the strictest rules of evidence until conviction is arrived at, receive any dependable information for sentence. This is frequently social evidence, the familiar instance being a probation officer's report.

Thus family or non-support courts and children's courts are, or should be, largely receptive of the social viewpoint and respond to social needs. On the other hand, judges are still to be found who regard social workers as

intrusive busy-bodies, cranks and faddists, as a few here and there may be. In return, social workers often regard such judges as having no social insight, since they are apparently inaccessible and indifferent to proffered solutions that to the social worker are the product of persistent labor and thought.

So it is, that as between social worker on the one hand and legal aid worker and legal instrumentalities on the other, there has grown up much lack of mutual comprehension if not some actual distrust or contempt.

THE MEETING OF THE TWAIN

However, do not let us conclude that "never the twain shall meet." In point of fact they do frequently meet, and all over the country there are instances where both maintain excellent liaison on the legal-social field.

The mere fact that some social agencies have effected a satisfactory rapprochement with some legal aid agencies demonstrates the possibility. To be sure, in one or two instances it was accomplished by making the legal aid agency a department of the social agency. But this is not the one and only solution. The satisfactory occupancy of the legal-social field must be predicated on a better comprehension by the legal aid lawyer and social worker of the aims and limitations of each other.

Their aims are largely the same if we interpret them in the phrase "social control." As pointed out by Dean Young B. Smith in his 1928 report of the School of Law of Columbia University in speaking of rules of law in legal education,

... too little consideration was given to the economic, political and other social problems which had brought the rules into being ... instead of viewing the law in its broader aspects and thinking of it as a mechanism for social control. . . .

By way of specific application, it appears that "a comprehensive study of familial law" is under way at Columbia University. Dean Smith says:

The first purpose is to uncover those areas of the law having important but unrecognized effects upon the family, and to reclassify this material and the material now generally recognized as familial law so as to facilitate a study of the rules of law as social forces actually shaping human relations and conduct. The second purpose is to disclose to students of law the major bodies of pertinent social science material relating to the family, and to consider methods of using this material in judging rules of law. For illustrative purposes the study will include a detailed examination of one or more areas of familial law, such as the law relating to entering into marriage, or the law relating to divorce.

With such studies in progress, including the research work at Harvard Law School and the American Law Institute into law in its relation to our modern social conditions, including the field of criminal law and its behavioristic problems, comes the hope that social service and social work will have proper recognition by lawyers as something not only closely allied to their own field but actually a part of it. It has, therefore, been well said that legal aid should occupy a position intermediate between law and social welfare, upheld by each. To accomplish this in practice is the problem.

WHAT OF THE FUTURE?

We have already indicated that an obvious way better to occupy the socio-legal field in actual practice is to make a legal aid agency a part of a family welfare agency. However, it requires little imagination to see that every social agency cannot have a well-organized, effective legal department with adequate facilities and staff both of general practitioners and specialists such as is needed in a large city. Us-

ally it is only a large, independent legal aid bureau serving the people coming from all agencies and sources that can be so organized and function to the best advantage. Therefore, the legal aid forces of a large community, flanked by the organized bar on the one side and the social welfare agencies on the other, must subsist side by side.

There must be close points of contact between the heads of each, either through cordial, frequent personal relations or joint committees, or conferences so that the differences in points of approach may be reconciled and the best possible results obtained for the mutual client. From this might well come the formulation of policies as to a definite working arrangement as to referral of cases, case summaries or reports, follow up of progress and disposition of cases. Besides, the mutual education of social workers and legal aid workers can be attained by courses on social work in law schools, courses on law in schools of social work, mutual field work, legal aid clinics in connection with law schools, employment of law students and recent graduates in law, at least one socially trained person in legal aid offices, a better knowledge by social workers of legal aid resources and vice versa, and use of social service exchange. These are some of the conclusions arrived at by the Joint Committee for the Study of Legal Aid of the Association of the Bar of the City of New York and of the Welfare Council of New York City in coöperation with the New York County Lawyers' Association, published in April, 1928.

In New York City an interesting experiment is being tried out pursuant to this report. The Welfare Council of the City of New York is a central city-wide body having a membership of a wide variety of social agencies.

It is divided into divisions and each division into sections, according to the kind of functions of the constituent agencies. It exists for better understanding and teamwork in the social welfare field.

The recently formed legal aid section is composed of the various legal aid agencies of the city and the legal aid committees of several of the bar associations of the five counties within the city. The section has appointed

three of its members to act with a like number of social service representatives as a joint committee.

Here is a concrete effort not only to promote understanding but actual, practical ways and means for both legal aid and other social welfare agencies to occupy the legal-social field to the greatest advantage of the client of each so that like two trees entwined, they may flourish to the utmost in the soil of social justice.

Law and Social Work in a Rural Community

By MARGARET B. HAY

Superintendent, Schuylkill County Branch, The Pennsylvania Society to Protect Children from Cruelty

THE community which we are taking into consideration lies in the southern anthracite field of Pennsylvania. By its very nature, Schuylkill County tends to keep its inhabitants at a distance from each other. Roughly taking the shape of a parallelogram, the county is divided, east and west, by three large mountain ranges with rich valleys lying between. The northern section of the county is devoted chiefly to coal mining, in its various aspects, ranging from the full-fledged mine, with its full colliery equipment, to the haphazard little river washery, which is run by one man. A few streams, including both branches of the Schuylkill River, cross the mountains and valleys, and the beds of these streams, in some cases, form the only access from one valley to another. In the mining section the population is grouped into two or three large towns, with a population ranging from fifteen to twenty-five thousand, and into numerous small groups of dwellings, which are too small even to be called villages, and which are roughly termed patches, lying in remote sections of the hills, extremely difficult of access both because of their distance and because of the lack of good roads.

The southern section of the county is of a milder physical aspect. Here the chief industry is farming, although some of the farm people alternate between their farm work and the mines. The population here is what one might expect in any rural district, one or two good-sized towns, and most of the

population living in scattered farm-houses or small groups of dwellings, not numbering more than two or three in a group.

The whole county has been particularly characterized until recently by the absence of good roads, by the diversity of interests, which keep the people more or less to their own districts, without any general central point of activity other than the county seat.

CHARACTERISTICS OF INHABITANTS

Much has been said and written about our foreign population in our big cities. Much has been done in these centers to educate and Americanize the foreigner. A great deal more, I feel, is to be said and learned about the foreigner, who comes directly to the rural sections of our country and is there promptly forgotten. In the particular county which we have under observation, the percentage of the foreign population far outnumbers that of the American-born. Imagine whole towns, in which there are nothing but representatives from the Slavic countries of Europe. In the northern section of our county the big towns are composed of 85 per cent foreign-speaking people. The small mining patches, I might say, are almost exclusively made up of all types of foreigners, including Lithuanians, Ukrainians, Greeks, Russians, Slavs, Poles, with a slight scattering of Italians and Montenegrins. The mother tongue is spoken almost entirely in the homes of these people. Some of them have

been in our country from twenty to twenty-five years and still have not taken the pains to learn the language of their foster land. If the children are sent to the American public schools, their church requires their attendance at a church school at night, in which their own language is taught exclusively. Parents with children in high school still do not speak the American language, themselves, and their "old country" ideals and customs have been preserved intact.

Consider again the southern part of our county. The open farm land and the small rural villages are peopled by Germans to a large extent. More English is spoken among this group, but it is surprising how many of them still speak only that queer, debased German known as Pennsylvania Dutch.

Of course, in all communities there is a scattering of what is generally termed the one hundred per cent American, and a few of the factories, some of the large businesses, the press, etc., are run by Americans. These form, again, a class by themselves and have little or nothing in common with the two major groups, which form the largest percentage of the population.

How is it possible, then, with these three extremely divergent types to expect any cohesive feeling in the county as a unit?

The foreign population knows nothing of law and order, in the American sense of the terms, or social betterment, and cares nothing for the welfare, even of their own kind, in a great many cases. The Pennsylvania Dutch, whose forefathers established the county before the foreigners came flooding in to open the mines, have lived in their remote farms and small communities, so content with their own narrow circle of living that they, too, rarely look beyond their own doorstep. Until recently the American

population has been interested in the county solely as a means of livelihood and is concerned simply in having its own businesses succeed.

VARIOUS ASPECTS OF LAW AND SOCIAL WORK

In such a community with such a diversified population, where the standards of living are far below those generally known in the larger cities and more American sections of our country, social work and the law are very closely related. Where there is no group consciousness, where there is no knowledge of any social problem and where the necessity for social betterment is not felt nor desired, the social worker must use the full power of the law as an entering wedge for further betterment.

Illustrating this is the case of a man and wife with five children, who lived in one of the foreign settlements, scattered over the county. Through the school it was reported that the children were attending school very irregularly, that they seemed undernourished and in a constant state of nervous fear. As the matter was investigated more fully it was discovered that the man and his wife, obsessed by some old world ideas and urged on by the vague proposals and threats of a foreign fortune teller, to whom they went for advice, were keeping the children up all night to take part in mystic dances in the cellar of their home; and to further observe mystic rites, they took the children over the mountains, walking them fifteen and twenty miles a night. They stole holy water from the church and washed themselves in it, and to cap the climax they were feeding the children cracked chicken corn and coal. Through interpreters, the matter was talked out with the parents and an effort was made to better conditions

for the children, but to no avail. After many attempts and much visiting on the part of the social worker, it was finally decided that sterner measures were necessary to make this couple understand that the laws concerning the welfare of the children were being broken. A summons was sent them from the local squire's office, but was totally ignored. The local constable refused to act for fear of jeopardizing his position, and the state police troopers had to be called in to serve the warrant. A terrible scene ensued when the final arrest was made, as both the man and his wife resisted the efforts of the trooper to the utmost, and the trooper had a rough-and-tumble of over half an hour with the man in the streets of the little patch before he could be subdued enough to get him into the squire's office for a hearing. There the matter was again thoroughly thrashed out and, as a measure of discipline, the man was sent to jail for two days, at the end of which time he was allowed to produce bail. Matters were again explained to the couple and, strangely enough, after the full force of the law had been felt, there was no further trouble. It needed but one short, sharp lesson to drive home the meaning of the words that children must be better cared for.

It is interesting to note that further welfare work needed in that community has been accomplished much more easily because of the lesson administered to this one family. Countless such cases could be related where the feeling of the community and the individual is so far from any social consciousness that absolute force is needed before any further work can be done. Nor is this the only type of legal assistance which is needed by the social worker in the rural community. The case where an individual has been victimized is one too often met with,

and here an expert knowledge of civil law is required.

NON-SUPPORT CASES

A man came to the office of the Society to Protect Children one day with a complaint against his neighbors in the southern part of the county in the farming district. The children were begging, he said; the man, although presumably able-bodied, would not work and was not supporting his family properly. The neighbors were sick and tired of having to help this family, and wished that something could be done to relieve them of the burden. The investigation, which followed, showed a condition which was deplorable and which, it seems, could hardly have existed in any other community than a strictly rural one.

The farmer and his wife belonged to the Pennsylvania Dutch. Among these people there is a strong strain of superstition, and this farmer and his wife believed thoroughly in witchcraft, hex-cats and pow-wow doctors. The farm consisted of about fifty acres. The house itself was in a dilapidated condition and the barns and outhouses were falling into disrepair. There were no farm implements around and no stock on the land. The children were pale and undernourished, but the house inside was immaculately clean, and the woman, herself, was neatly dressed. The only part of the fifty acres under cultivation was a small patch about ten feet square, not far from the kitchen door. In this the man had laboriously tried to raise a few vegetables. What had happened was this: The man had gotten into arguments with his neighbor, who was jealous of him because he owned these fifty acres which were considered a particularly good tract of farm land. Because of the actions, leaning toward witchcraft and the practices of such

believers, the neighbor conceived the idea of having the man adjudged mentally incompetent. This was done and the man was committed to the County Insane Hospital for observation. In the meantime, a sale of the man's farm implements had been ordered as a means of settling a few debts. His stock and implements had been sold out at less than their cost, and when the man was finally released from observation, having been dismissed by the doctor in charge of the hospital, he came back to his farm to find himself a totally ruined man. While he had his farming acreage, he had nothing with which to work his farm, and he was slowly starving to death in the very heart of a rich farming community. He was glad of work, but none of the neighbors would give him work because the story of his alleged insanity made people suspicious of him. What the man really needed was a good legal advisor to regain some of his property, which was sold erroneously. What the social worker could give him was merely medical care for his children and an attempt to reestablish his character among his neighbors so that he would be offered steady work. Six miles from the nearest town and twenty-one miles from the nearest clinic, with no relieving organization operating in his section of the county, this man and his family presented a most distressing problem from both a social and a legal viewpoint. There was no legal aid to help him, and the social consciousness of his immediate neighborhood simply took the form of looking upon him as a nuisance to be removed from their midst, rather than as someone to be helped.

Not all cases are so tragically hopeless as the aforementioned, but the family deserted or not supported by a husband and father is all too prevalent

throughout our rural districts. What happens is generally something like this: Mr. B., tired of his home and family cares, one day suddenly decides to walk off and forget all his worries. He leaves behind him a wife with a large number of children. He may live in a mining patch, a large town, or out on a farm. At all events, one day he simply has disappeared. Strange as it may seem, nothing is done at all about this until the family is actually on the verge of starvation, maybe two weeks after Mr. B. has disappeared. Then they begin to beg from the neighbors. Mrs. B. may go as far as to talk it over with a local squire and he advises a warrant for the arrest of Mr. B., although his whereabouts are most hazily known. He may be at one of a half-dozen places. The squire advises Mrs. B. to wait until he turns up again, and then he will be picked up immediately. In the meantime, the little family has become a burden on the community, and neighbors run in every so often with a loaf of bread or a dish of some cooked food. Finally when everyone has become tired of helping, the case may be reported to the Society to Protect Children.

The problem of the social worker becomes twofold: first, the family must be helped, and second, the process of law must be hastened and a definite attempt made on the part of the social worker to locate Mr. B. and have the warrant served upon him. There seems to be no definite machinery which will enable the squire to do this bit of detective work himself and thus hasten the apprehension of the defaulting Mr. B. Such a bit of machinery would undoubtedly save the family many weary days of worry and suffering, and it would be much less expensive in the long run, as the family would then less likely become a charge upon the county.

IMMORALITY

Another type of case shows clearly the need for a general awakening of the community to its own moral tone and also the necessity of some form of combating conditions, which are acknowledged to be immoral. A case such as the following is, unfortunately, often met with in the small patches and outlying farming sections of this large and difficult county. A woman with her six children lives in a small town near the county seat. The father of the family is in jail, serving a two-year sentence. There are three children who are old enough to work, but who are not doing so. The mother does not work. The home conditions are terrible. Heaps of garments in different corners of the room show where the children curl up for the night like puppies. There are but two beds in the whole house, and there are eight people who must share them, as the woman's sister is living with her. There is also a boarder, and at other times one or two men frequent the place. It is not notoriously known as an open house, but it is well known that there are other men frequenters of the house, and the oldest girl has already had one illegitimate child. The filth and general lowness of moral tone in this home are indescribable, and the younger children growing up, have no chance whatsoever of becoming anything else but what their parents are now. The community in which they live has nothing to offer in the way of evidence as an assistance to breaking up the terrible conditions in this home. The mere removal of the younger children from the care of this woman does not seem sufficient, and yet the social worker cannot collect the evidence necessary to break up finally the activities of this depraved household. Surely some machinery in law could be

evolved which would bring this family to task. It would seem that not the law alone, but the general feeling of the community must be aroused before anything can be done here.

NEED FOR COMMUNITY ORGANIZATION

With indifference and ignorance, and at times positive defiance on all sides, the problem of welfare and social betterment is threefold: first, the community must be awakened to the need which it has in its midst, and must accustom itself to using the agencies provided by welfare organizations; second, it must stand ready to assist actively in the bettering of conditions, even if actual force is necessary; third, it must develop within itself the machinery to cope with the various problems arising within its own compass. One of the chief reasons why it is so hard to arouse the community to a sense of responsibility towards its own living conditions is because of the closely interwoven fabric of its life. An individual, living in one of these smaller communities, hesitates to be the one to make the first step or to take the stand against existing conditions. It is hard to find someone who will lay information before the authorities. The authorities, themselves, hesitate to act. The smaller officials, such as squires, burgesses, constables, etc., fear too much the loss of political prestige for them to take any step which might arouse criticism in the community. Most often the actual machinery to handle social problems in the rural community is totally lacking. A well-equipped rural community using the county as a unit, upon which to work, needs a family society, a children's society, which can handle immediately urgent cases of neglect and cruelty, as well as child placing and health work. It needs, also, visiting

nurses, and clinics at convenient points. The social worker finds it nearly impossible to bring children fifty miles to a clinic.

The local constable will not, without the backing of a stronger force, put through the apprehension and return of a wandering husband. Neighbors in small towns and in sparsely settled farm districts are alike, either indifferent or timorous about reporting bad conditions. The rural community finds itself in the position of having to lift itself by its own boot straps. It must recognize at first that the horrible conditions do exist even though the average citizen will blandly assure one that such things never happen in his home town. It must, having once admitted that the conditions are such that they need betterment, find or

install the particular type of machinery in the way of clinics, nurses, relief organizations and corrective societies, which will bring about the desired results. Then the community consciousness should be toned up to the point where it will publicly back up its officials in the necessary legal steps to be taken to enforce these measures of betterment.

In this program of social betterment in rural communities the law is always the basis and foundation of social work and should be more available to the average citizen than is at present the case. Legal aid societies, public defenders, and kindred movements are indispensable, and are the final acknowledgment by the community that their consciousness has awakened to the need of social betterment.

The Problem of Financing Legal-Social Work

BY WILLIAM J. NORTON

Secretary, The Detroit Community Fund

JUST what plan the Legal Aid movement ultimately adopts for its financial advancement depends in no small measure upon the aspirations and ideals that it fosters. The general program of social welfare so prominent in America, of which Legal Aid may be regarded as a department, depends upon just four major sources of revenue: client earnings, income from endowment or capital, tax funds, and contributions or voluntary gifts. Each of these has definite advantages and definite limitations. Each of them supplies the means, or a considerable portion of the means, for rather well-defined groups of service at various stages of their development. Some programs naturally lean more heavily upon one source than upon another; and some programs are so constructed that they lean upon more than one.

SUPPORT OF LEGAL AID MOVEMENT

So far in its life the Legal Aid movement has been supported more through contributions of individuals and corporations than through other means, with tax funds in the second rôle. Contribution income is usually the dominant feature at the start of any particularized social welfare operation, especially if it falls in the broad field of relief where Legal Aid is placed. A period of demonstration of utility must be passed through during which a limited number of persons who see the need organize to meet it and enlist the voluntary gifts of themselves and a few friends for promotional purposes. If it lives, the aggressive interest and devoted labor of these promoters are

chiefly responsible. If it grows, the drive of that same aggressive interest gradually expands the scope of its backing. In the course of years, either the inherent peculiarities of its initial program, or an enlargement of the type of service that it renders, may lead it into the realm of client earnings for a larger share of its support; or its peculiar appeal may bring to it legacies and capital gifts so that endowment earnings figure heavily in its maintenance; or its general acceptance by the public may lead it into the list of socialized departments supported by taxation.

VOLUNTARY GIFTS

Although Legal Aid appears to have experimented with these more happy solutions of its income problem, particularly with tax support, it is none the less true that it still rests very heavily in the column of the voluntary contribution for the great share of its revenue. Sometimes this money is supplied by a direct solicitation of the general public in the name of the Legal Aid Society; sometimes it is chiefly supplied by a sponsoring Bar Association; sometimes its appeal is made as a department of a larger more generalized relief society; and sometimes its funds are supplied by the Community Chest which the Legal Aid Societies of many cities have joined. Whatever method of securing contributions is employed, such heavy reliance upon voluntary giving places restrictions upon the amount of money that the movement may expect for its support. While the voluntary gift makes the loudest splash in the finan-

cial pool from which the maintenance of philanthropy is drawn, it plays as a matter of fact a third-rate part in the total support. Tax support and client earnings yield much greater returns to the philanthropic coffer than does the voluntary gift. All the evidence that has been gathered concerning contributions, no matter how they are secured, points to the fact that a more definite limitation is placed upon the volume of work that can be carried on with this kind of revenue than with the other two.

While we have seen a very great enlargement of the sum total of voluntary giving in the last few years, it is indeed doubtful if the proportion of the total income of our people that previously went for voluntary gifts to the maintenance of philanthropy has been enlarged. Considerable evidence points to the conclusion that the proportion has remained stationary. Certainly if the proportionate share has enlarged, the enlargement is relatively small.

It is true that the community chest in which many Legal Aid Societies nowadays participate has increased the sum total of giving to the objects which are marshalled under its banner. Numbers of previous known givers to organized services have expanded greatly, and the size of gifts by wealthy people to these selective objects supported by the community chests have grown. In spite of this, it is probable that the proportion of giving to the total national income is not very much different in 1928 from 1900; and in the meantime competition for this voluntary gift has increased by leaps and bounds. Movement after movement has come into existence, demanding its share of the contribution income of the country.

Consequently any organization or movement, that aspires to a constantly

enlarged program, calling for constantly enlarged revenues, must sooner or later seek support from one or another or all of the other three sources of revenue. Here we come squarely to the aspirations and ideals of Legal Aid upon a determination of which by its sponsors must eventually rest the decision of whether the present tendency to get a good share of its support from voluntary gifts is the permanent answer to its financial problem or not.

Up to the present Legal Aid has offered a rather restricted relief service involving counsel in private matters, representation in civil actions, and defense in criminal proceedings. Persons who had to have a lawyer's aid and could not find the wherewithal to pay his fees have been regarded as its proper clients. Moreover, the movement generally has confined itself to clients in definite kinds of distress. If this policy is continued permanently and Legal Aid remains a relatively small bureau serving the extremely poor in minor legal matters, there is no pressing need for any other answer to its financial problems than the one given at present. Contribution income plus those natural modifications that exist, here and there, because of the idiosyncrasies of certain localities, is sufficient. In most cities the growing community chest movement will be able to absorb the load with reasonable comfort and everyone will be happy.

If we assume, however, that the movement eventually may have somewhat the same history that medical relief has had; that more and diversified kinds of legal aid will be given in the future; that the working class will come to lean more heavily upon the lawyer than it has in the past, and will find increasing difficulty in meeting a lawyer's fees; then the movement will expand and grow to such proportions

that the present simple methods of financing will have to be expanded also.

ENDOWMENTS

When that moment comes, or even before it comes in most philanthropic enterprises, the wish, the desire, and the effort frequently turn to the endowment as the second and apparently the next easiest source of income. Looking about at what seems to be a very large endowment fund scattered throughout the country, the managers of almost all philanthropies convince themselves, and try to convince their friends, that their movement is a proper recipient for an endowment large enough to support its entire program from the earnings. It is a natural wish for each of us to be ultimately secure. The uncertainty of voluntary gifts, the effort it takes to secure them, together with our hesitancy to yield control of our hobby which is required when we are absorbed by government, turns our hopes and our desires toward the endowment fund. Publicity given to large endowments deposited with one movement or another from time to time keeps the wish alive and the hope aflame.

While the hope and the wish are commendable enough, certain probabilities or rather lack of probabilities exist, that, when taken into consideration, prove it to be relatively vain. In the first place, out of the thousands of philanthropic organizations now existing in America, there are a mere handful sufficiently endowed to relieve the necessity of securing funds from some other direction. Endowments are big enough in only a few agencies to play any really important part in the financial scheme of their activities. Again those who leave capital sums to charity follow fairly well-defined habits. They give much more frequently to some fields than to others, and they

give much more generously to these selected fields. Private educational institutions of secondary and higher learning are the greatest recipients of endowments. Their alumni, occupying positions in the middle and wealthy classes, feel a loyalty to them because of the benefits received which makes it natural and simple to turn more frequently to them in moments of great generosity than to other public service enterprises.

Hospitals and dependent children's institutions, and societies are the next organizations overwhelmingly favored by the individual who makes up his mind to endow some philanthropic cause. The buildings which they need can be visualized by the eye looking for an outlet for some of its owner's money. Health needs are so universal that rich as well as poor must use the health facilities of the country, which breeds a personal loyalty to that movement secondary only to education. The plight of distressed children rouses the universal maternal and paternal instincts. Furthermore, there is the happy hope that money given to aid children will prove to be more constructive in its ultimate effect upon the life of the recipients than money given for the relief of adults. In these simple emotional stimuli we find explanations for the fact that private schools and colleges, hospitals and children's movements receive fully three-fourths of all the endowment money left in America.

General and particularized relief movements get an instantaneous response in current gifts at the moment when the appeal is apparent; but in a society which worships success and looks askance upon failure, it is always more difficult to convince the contributor of capital funds that he is justified in a permanent recognition of failure and the needs which grow out of

failure. Any call for endowment funds that does not strike into the experience of those who are rich or those who get rich, is relegated to a secondary place; and an extremely moderate share of the endowment money that is accumulating in America answers such calls. The fragmentary evidence we have indicates that these tendencies are fixed and not easily to be shifted.

Other objections to too much support for any movement from endowment earnings are lodged in social ethics and considerations for the permanent good of the public. It is hardly necessary to discuss these in an article such as this, because they lie in the realm of political and social economy and ethics, and for the further pragmatic fact of the improbability of any large endowment fund being devoted to such movements as Legal Aid in most of our cities.

As matters stand today the proportion of endowed Legal Aid Societies is less than in a number of the other distinctive relief fields. The Boston society is the only one which lays claim to any substantial endowments. Endowment growth through a steady accumulation of a large number of bequests over many years of time is one of Boston's peculiar habits. It is also a peculiarity of New York and Philadelphia. While Legal Aid may receive in a few cities some substantial part of its support from endowment earnings, most of the country probably will not show that fortune.

TAX SUPPORT

The third place to which we are accustomed to turn when a philanthropic movement outgrows the support coming to it from the voluntary gift, is the tax dollar. It may be spent as a direct appropriation to a department of government or as a subsidy from the government to private

charitable agencies. The writer is not aware at the present time of any Legal Aid Bureau under private auspices receiving governmental subsidies. Those who are as deeply interested in the total welfare of society, as they are interested in the welfare of a special fragment of the distressed classes, rather generally agree that government subsidies, unless they can be allotted upon the basis of some per capita charge for service rendered that is under strict accounting control, usually breed more trouble than good. Subsidy on any other basis opens too easy an opportunity for a disheveled honesty in approaching the appropriating powers. The possibility of creating and supporting institutions that cannot prove their usefulness under rigid efficiency and achievement tests is too wide open.

A divergence of opinion exists concerning the wisdom of government directly administering charity that deals with non-institutionalized persons and families. Many professional and lay-workers, noticeably in the East, believe that standards of performance which they hold for themselves are usually not met by governmental workers and are not likely to be met by them. Political appointments of unqualified employees, and political pressure for service to the client that is injurious rather than helpful, is feared by them. On the other hand, many other professional workers, noticeably those west of the Alleghanies, believe that the only final solution for an adequate program to meet the growing relief burden in America lies in the final governmentalization of its finances and administration. This belief is based, first, upon the knowledge that historically the traditions of the English-speaking races from the time of the Tudor Kings have leaned overwhelmingly in the direction of govern-

mental control and administration of the major part of its relief program. If one examines the country carefully, he finds today, in spite of the vigorous and vociferous growth of private relief work, that an extra large proportion of relief is administered and financed through municipal, township, and county governments. This knowledge is bolstered again by the obviously great difficulties that surround adequate financing from other sources of the relief movement with its present tendencies to grow and expand. With the rise of the industrial order and its violent fluctuations of earning possibility among the working classes, together with the prevailing tendency to mortgage the income of those classes through the high pressure installment selling campaigns that are the order of the day, the demand for various kinds of relief has increased tremendously. Privately supported organizations have not been able to keep up with the growth. Hence the rise of mother's pensions, accident compensation systems, and pleas for additional similar movements, all of which are relief in purpose and all of which are either now lodged in government or will be lodged in government whenever they come into existence. To the pro-government advocate the issue is a pragmatic one. The job as he sees it can be done extensively in no other way. Therefore, it becomes his business as a social thinker not to oppose the only possible solution for his great perplexity in the fear that the government will do the job poorly, but rather to make up his mind to bring the necessary intelligence and activity into government circles to insure the installation and the maintenance of the standards that he holds so dear.

Legal Aid has shown a rather surprising friendliness for government support and control. The civil work

in some of the largest cities, such as Los Angeles, Philadelphia, Kansas City and St. Louis, is carried by the tax dollar, and is part and parcel of the respective governments. Smaller cities also have assumed the job. The public defender is an official member of government where he exists. Taxation is the second most general means of revenue employed by the movement at present. Perhaps this is because of its close affiliation with the judicial machinery, which, of course, historically in Western civilization has been a part of government. Whether this tendency grows and other cities, counties, and even states, create free legal departments for the people, depends largely upon whether there is an essential virtue in the movement that in the future will lead increasingly large numbers of poverty stricken people to come to it, completely unable to pay for the service.

CLIENT EARNINGS

One other consideration remains, that of client earnings. Any agency or movement that can make earnings from those it serves the major source of its income is fortunate indeed, as earnings are less dependent upon whim and fantasy than the other sources; their growth is limited only by the true demands for service; and their large utilization enables a type of control and administration to be maintained, which promises the least interference with efficiency. In our time we have seen in many of the character-building institutions and movements a definite trend toward client earnings to that point where, in a number of instances, almost the entire program is carried from the earnings produced. The Christian Associations are an evidence of this. Many of the summer camps of philanthropy, originally conceived for boys and girls upon a relief basis,

have discovered that they can still take care of the poor and earn almost enough to support themselves. In the last few years social settlements have shown a surprising capacity to earn money from those who use them. Some particularized fields of the relief movement, noticeably that dealing with the physically handicapped, are expanding their work through client earnings. The same inclination is very pronounced in health institutions, such as hospitals and visiting nurse organizations.

Hospitals have long maintained a graded schedule of fees. For the wealthy facilities are furnished at a price above cost; for the middle class at approximately cost, for the working class above the dependency line at a price below cost; and for the pauper the service is free. Thus the rich are made to produce a profit; the middle class to help carry the heavy burden of overhead that goes with such an institution; the working class to reduce the total deficit; and the balance is made up from endowment earnings, voluntary contributions and sometimes tax subsidies. The original conception of hospitals to serve the poor in the spirit of charity is conserved, and to it is added the larger purpose of serving all the population as well. Nursing organizations, at first designed to give free nursing care to those who could not afford to pay anything, now receive a large slice of their income from contracts with insurance companies for attendance upon sick policyholders. This is decidedly to the advantage of the insurance companies and the policyholders; and it enables the nursing organizations to spread their overhead upon a paying clientele, and to expand their services to the poor. These agencies are also experimenting with an hourly rate for part-time service to self-supporting indi-

viduals who do not wish to engage a nurse upon full time.

One of the most interesting and significant developments in this field of client earnings has been taking place in clinics during the last few years. For generations clinics confined their helpfulness, generally speaking, to dependent people who could afford to pay nothing for medical attention. Recently, profound changes have come about increasing the cost of medical service to that point where the working population has begun to turn in hordes to the clinics. A change of policy has been instituted whereby the clinics have established fees for the lower income working-class groups, creating new financial resources which nowadays not infrequently furnish approximately one-half of the total income. A small number of clinics exist which are completely self-supporting from their fees. This capacity to produce revenues from an independent clientele desiring services and willing to pay for them, enables any organization not only to make friends in an expanding circle of self-respecting people, which gives it a dominating position in the competition for voluntary gifts, but also enables it to serve a larger number of dependent folks.

What bearing has this branch of income upon the finances of the Legal Aid movement? Little or much according to its ideals and aspirations, as we have said before. Legal Aid work started out clearly enough as a department of relief work. So did hospitals many years ago, and clinics at a later day. At present Legal Aid work is not far from where it started in so far as policy and aspirations govern the scope of its activity. It is still young and it still confines itself fairly closely to rendering aid to those unable to pay a lawyer's fee, and restricting its work further to a number of limited fields of

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legal practice. In this respect it is like the early health institution movement. Possibly the demand for its services will not grow beyond that stage. It differs from the medical field in that there is no universal or constant demand for a lawyer's skill by the members of the self-supporting lower income group. Each individual uses a lawyer infrequently, and although the fee startles the client, there is no popular revolt against that fee as there is against the medical men's and the nurses' charge. Nor is there likely to be any so long as the lawyer's business with small fry deals so overwhelmingly with property transfers and matrimonial disturbances. Property holders expect that everyone who has a hand in its transfer, or in formally enhancing its value, must be paid. Legal Aid Bureaus are avoiding the divorce field just as far as they can. However, if the time comes when the public looks to the legal profession for greater and greater service, especially in questions of justice that lie outside of criminal defense and prosecution, divorce, and the settlements of disputes involving property, it is possible that we shall see a popular demand for a kind of service by the Legal Aid Bureau which will probably carry with it a modest charge, too small to be profit-

able to the general profession, but big enough in the bulk to go a long way towards the support of an enlarging Legal Aid movement.

Even today there is a small tendency to use earnings as a method of expanding finance that seems to be quite general in the field. In Detroit, for illustration, one-eighth of the total budget of the Legal Aid Bureau in 1929 will come from client earnings. This is a quite recent development with that society, and growth of this kind of revenue to one-eighth of the total budget is surprising. Prominent lawyers, maintaining expensive establishments, send to the Bureau clients who go first to them, wanting some small job for which they can pay a modest sum, not big enough to make it worth the time of the attorneys appealed to. If this type of service increases and becomes general in Legal Aid circles, the easiest, the most stable, and by far the largest source of support will have been opened wide to the movement. Further, whenever the public comes to have greater confidence in the law and in the lawyer for adjustments of a thousand petty but vicious injustices rampant in our society, a veritable sluiceway will be opened for self-support and with it a possibility of useful service unknown today.

POSSIBLE EXTENSION
OF THE
HUMAN LIFE CYCLE

by

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Possible Extension of the Human Life Cycle

By EUGENE LYMAN FISK, M.D.

Medical Director, Life Extension Institute

OLD age is a tissue change differing only from commonplace disease in that the changes are insidious, widely distributed, of slow development, and only attract attention when contrasted with antecedent states distant in time. Sometimes these changes are accelerated and then we have what is commonly called a disease, such as arteriosclerosis, nephritis, myocarditis, or similar organic affection. Strictly speaking, pathology is always present in those showing the physical characteristics of elderly life or senility.

Old age is not a function of time but a physical state. Time is a term used so frequently in every-day life that it has even become personified and is spoken of as "Father Time." Time is said to deal "gently" or "harshly" with people. Probably the average man regards it as an entity, a thing. This we may pass over as only one of the instances of confused, nebulous human thought among people who do but little thinking. It is, however, astounding how this fallacy has gained currency among intellectual people and even among hard-headed scientists.

TIME NOT AN ENTITY

It is impossible for anyone, however hard he may try, to represent, in thought, time as an entity. Time is a synthesis of space and motion. If there were no space, there could be no motion; if there were no motion, there could be no register of time—and the register of time constitutes its only actuality. This definition of time—which from memory I credit to Herbert Spencer—may seem too limited

for the purists in the new physics; yet it appears adequately to cover time as a factor in the world of external relationships.

Eddington, that charming expositor of and contributor to the newer physics, says of time, "God knows what time is." In saying this he has given expression not merely to a sense of bafflement and irritation but to a profound philosophical truth.

Time cannot indeed be fully understood by finite human intelligence. However, giving thought for a moment to Eddington's own speculations on time and his emphasis on the fact that time in its external relationships has a different aspect than the time of our inner consciousness, which connotes a sense of *enduring*, it may be maintained, I believe, that no such sense of enduring can exist without the perception of motion—motion of thought and of ideas if not of substance.

While here we are contrasting two distinct fields, nevertheless I think the question may be raised as to whether, assuming that the universe, including man, were frozen into a state of immobility, and assuming that the consciousness of existence were still present, there would actually be any sense of enduring of the kind that Eddington postulates. Would there not, rather, be a sense of existence on the instant without antecedents or sequences, without motion of thought or ideas?

Admitting that it is not possible absolutely to translate the synthesis of time and motion as it exists in the external world, into the world of consciousness and thought, the analogy

holds and we may claim that in the psychic field there must also exist a register of time if it is to be appreciated as such. This register can only be evolved through motion in the psychic field, which internally corresponds to the external field of space.

The reader's attention is directed to these problems merely to safeguard against strife on this mooted question of time which is baffling those who have probed most deeply into the world of physics now rapidly becoming the world of philosophy. Curiously enough, the principle of relativity, although new to physics, runs like a thread through various philosophies, even back to Zeno the Eleatic (500 B.C.), whose disciple, Gorgias, wrote "Concerning Nature or the Non-Existent."

For the purpose of the main thesis of this paper, the definition as presented is adequate, as all are agreed that time is not a substantial thing but a mathematical abstraction. Whatever part it may play in the four-dimensional world of Einstein and his followers, time is no more substantial than such abstractions as the past, the present, and the future. That such a pure abstraction should have any influence over the human organism is obviously a childish concept; indeed, it is no concept at all, because it cannot truly be expressed in thought. All through medical literature, however, we find the statement running that time "does" various things, especially in the matter of ageing the human body or, more correctly speaking, destroying the human body.

FREEDOM OF OUR MINDS

If we could get rid of this time fallacy, our minds would be free to work much more flexibly in the field of human betterment. As an example of the powerful influence of this psychological

factor in molding the views of scientific men, I may cite Sir Clifford Allbutt, in his monumental work on angina pectoris, to the effect that certain forms of arterio-sclerosis are inimedicable because they are due to time and "one cannot hold back the wings of time." This, of course, is dealing in pure allegory. There is absolutely no scientific significance in such a declaration. It has no more real scientific meaning than a mathematical point in vacuo. If we accept such a figure, we must proceed to visualize the wings of time flapping about our arteries and bruising them. And yet this statement emanates from one of the wisest, most skillful and distinguished men in the field of cardiology.

If the simple fundamental theses that I advance are acceptable, certain inevitable implications arise from them. Time having no power whatsoever to influence the human body, where shall we seek for an explanation of the seven ages of man? What does cause the human body to go through these various cycles of change, ending always in death? If we search the literature on this subject, we are again confronted by an astounding, widespread fallacy current among scientific men generally and the medical profession in particular. I refer to the commonly stated view that the human life cycle is "fixed by nature." It is just natural for a man to be born, to go through the phases of infancy, childhood, adolescence, middle age or the climacteric, and, finally, senility and death, if he is not abruptly cut off by some acute disease or accident! Of course this is tremendously informing to know—that nature is responsible for it all, that "nature" has spoken and there is nothing more to be said.

Again we are led into mythological allegories, personifying nature, deifying nature, or seeing her in the mind's eye

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as a great motherly creature handing out vitamins, minerals, and pap of various kinds to keep the human race going, and, apparently influenced by nothing more than an emotional whim, withdrawing the dispensations of life and health and giving us the final *coup de grace* at three-score years and ten.

Thus do we clumsily think about the most vital things affecting our destiny. That I am not dealing in hyperbole is shown in the following quotation from an eminent physician's remarks:

I think the pathological evidence is quite convincing that the tissues of the body wear out after a certain length of time and that there is a fairly definite *fixed limit* to human life.

To show the confusion of thought on this subject and the opposite poles of view, we find editorial comment¹ on the remarks of an eminent pathologist, as follows:

In the midst of the discussions that have been mentioned, it may be well to take account of a statement of the editor of the *Annals of Internal Medicine* entitled "Common Sense and So-Called Life Extension." Modern medical science and the general improvement in the living conditions of the human race, he points out, have been the means of preventing pathologic extrinsic death in the early decades of life by modern preventive medicine and hygiene, but have not extended the individual pathologic life limit and *cannot do so*. Nevertheless, one enthusiastic lecturer has declared that average life limits of 125 or even 140 years are not unattainable goals for the human race in the next century. Professor Warthin wisely emphasizes that such assertions have no scientific foundation, and, in fact, are wholly contradictory to the actual knowledge we possess in regard to the nature of old age and the *natural limit of life* in the individual. "The statements that old age can be deferred," he says, "have no more scientific truth in them than the widely

advertised promises of rejuvenation. Senescence is a *normal* process of involution as necessary to the progress of life as is the normal process of growth. It is intrinsic, inheritable, fixed in the germ plasm through the action of all of the forces of the Universe that have exerted influence upon the protoplasmic machine of life through the countless ages from its first appearance upon this earth to the present period of evolution."

NO "NATURAL" LIMIT TO LIFE

This smacks strongly of scholasticism. To say that nature has fixed "a natural limit to life" reminds us of the time-honored scholastic dictum that nature "abhors a vacuum." Incidentally, it does not happen to be true, for in certain countries the span of life has been extended and the death rate improved at practically every age period of life in addition to the earlier age periods. It might be well sometime when writing so super-confidently about such vital matters and telling the scientific world and the public what *cannot* be done, to go to the original sources of sound scientific information on such matters and ascertain what *has* been done.

Approaching this matter from another angle, let us consider the accompanying table offered by the United States Bureau of the Census showing the measure of vitality in various countries.

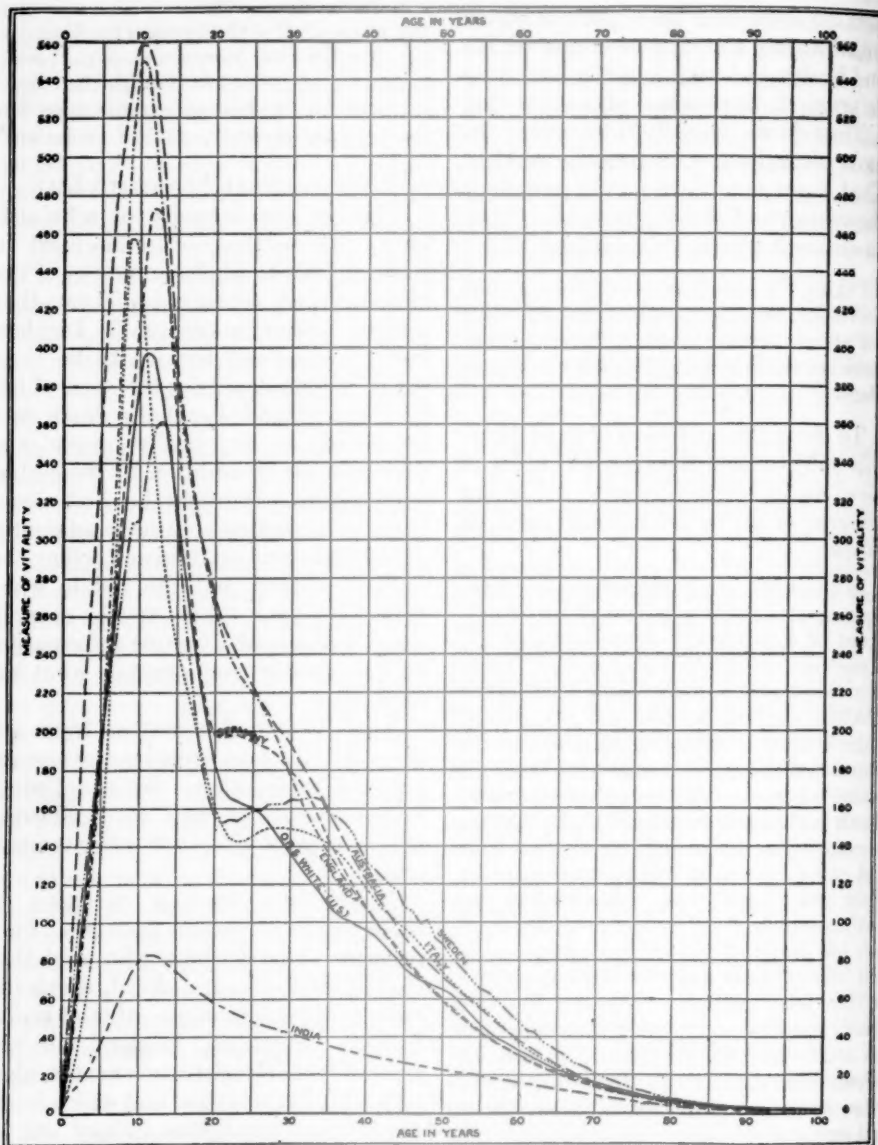
Noting the marked variation in these values in various countries, I am prompted to ask those who hold that the life cycle of man is fixed, which life cycle they have in mind—that of India, Sweden, Australia, England, or the United States Registration States; also, which life cycle is fixed and which is unfixed? Are conditions in any one of these countries, with regard to ways of living, the conquest of disease, the adjustment and control of the human body, the organization of society on the highest plane of living, at the limit of

¹ *Journal of the American Medical Association*, Dec. 29, 1928, p. 2067.

MEASURE OF VITALITY *

Australia, England, Germany, India, Italy, Sweden, and Whites in the Original Registration States

Males: 1901-1910



* See United States Life Tables—1890, 1901, 1910, and 1901-1910, p. 290. Government Printing Office, 1921.

possible excellence, or is there something yet to be done in the future? A mere glance at such a table reveals the fact that when we talk about the span of human life we are talking not about a fixed entity but about a variable quantity. I fancy that in the course of a thousand years there will be some shifting of these graphs, if there is then a census bureau to make up such a report—which is by no means certain since nothing in the universe is either fixed or certain.

THE LAST WORD HAS NOT BEEN SAID

As I shall later emphasize, anyone making such positive claims implies that he knows everything, that he has read the future completely, and that the last word has been said throughout the whole range of science. But has it? Because only a few weeks later we read in the same journal² another editorial commenting sympathetically on Professor Sherman's experiments with rats, in part as follows:

... Hence the fact that inquiries of this sort heretofore have failed to establish satisfactory correlations between environment and longevity does not prove that the relationship does not exist; it is at least equally probable that the environmental factors may actually have a greater influence than has been demonstrated. Unfortunately, not all discussions of longevity have shown this discrimination. Too often the type of inquiry referred to has been taken to justify the view that nothing which a person can do for himself, or which can be done for him during his lifetime, will materially influence his length of life—a conclusion that far overreaches the available scientific evidence and carries a flavor of dogmatic fatalism rather than of modern medicine. Much of the available evidence offers good reason for believing in environment as a factor in longevity. To mention but one of many causes of death, is there not full justification for believing that many men who

have died of pneumonia might have lived longer if they had been less exposed to infections and bad weather?

Broadly regarded, the nutritive condition of any person may be (doubtless in many cases is) influenced by inherited constitution and by external environment, as well as by the nutriment which he consumes. Moreover, even within the range of variation of what is considered a normal and adequate food supply, it now seems to have been demonstrated that the food which one consumes may influence one's longevity.

Thus we have in one case an eminent scientist declaring, without qualification and with editorial support, that it is impossible to extend human life. In another case, the same editorial column concedes the fact that environmental factors may have a profound influence on longevity, that this may be even a greater influence than has heretofore been demonstrated in these experiments, and that dogmatic fatalism is not justified in such matters.

LIFE EXPECTANCY

One writer of a popular book on health, or, rather, on ill health, attains a fine frenzy and reaches an intense emotional climax resulting in a long chapter of turgid nonsense over the alleged discovery that the expectation of life at age 35 in 1850 was 25.3 years and in 1925 it was 25.4 years. Apparently fascinated by the complete inability of public health efforts during that period to add even a tenth of a year to a human life in full maturity, this author asks, in effect, "What is the use of scourging ourselves and denying ourselves anything? Anyone who wishes to do so may take his tenth of a year, and I will take my cocktail"—or whatever the indulgence may be. This author goes on to say that nothing a man does after he is born can have any material influence on the duration of his after-lifetime.

² *Journal of the American Medical Association*, Jan. 5, 1929, p. 57.

These statements, as well as those of the other skeptics, afford fine illustration of Huxley's delightful *bon mot* with regard to a "Spencerian tragedy." He said, "Spencer's idea of a tragedy is a deduction killed by a fact." In the case of the more serious scientific writers there is quite evident a Spencerian tragedy, but in the case of the last author mentioned, it is more in the nature of a comedy because the statistics offered are wholly inaccurate and the author's first premises are so unsound that the building up of a whole chapter on such a basis of nonsense prompts us to amusement rather than indignation; yet these comedies may well turn into tragedies if taken seriously by the ignorant.

The temper of this author's mind may be judged by the fact that he has written a whole health article felicitating himself on the fact that a fat old maid who was in a very dangerous organic state and whom he advised to get married, died on her honeymoon. This was his idea of a short life and a happy one! It is only a step from such philosophy to wish death to all brides on their honeymoons, thus preventing the subsequent tragedies of married life; and only another step from that to Sophocles' cheerful dictum that "not to be born is best, and next, to die as soon as possible."

Of course, people with any real interest in ascertaining scientific truth pay little attention to such flippant discussion of health matters. But there are so many in the population who are diligently seeking for some semblance of an excuse from apparently scientific sources to do what they please, regardless of its destructive effect either on themselves or on their neighbors, that those seriously interested in public health education must regret such utterances.

That these dicta of the skeptics are

indeed examples of Spencerian tragedies is easily shown by a brief reference to the facts that assassinate their deductions. Instead of one-tenth of a year being added to the average lifetime at age 35 in the past seventy-five years, nearly 5 years have been added to the average lifetime at that age in the last one hundred and forty years; and the present expectation, instead of being 25.4, is exactly 33 years—which is an error, on the part of this excited author, of only about 40 per cent. Furthermore, one and a quarter years have actually been added to the average lifetime at age 35 since 1910. Thus we see that this one-tenth of a year about which such antics are cut up, is a fiction.

GOING BACK OF THE CENSUS FIGURES

Even among the more temperate scientific writers we find the dictum handed down that nature has fixed a limit to the duration of human life. A great deal of confusion of thought has been created by the varying utterances of those writing on this subject, many of whom state the facts but express themselves in such way that the uninitiated easily misinterpret them. For example, Mr. James W. Glover³ has said:

Writers and lecturers—and through them reports in the press and magazines—have fixed attention too closely upon this steady increase of the expectation of life at birth. They have predicted for man an average span of life of one hundred years, and even one hundred and fifty years, at a time not far away. The oft repeated statement that we have increased the expectation of life fifteen years in the last three decades followed by the prediction that we may expect to double this gain in another quarter century is absurd, if we take all the implications of our life tables at their face value. What stands in the way of this advance?

³ *Proceedings of the Third Race Betterment Conference*, Jan. 2-6, 1928, p. 302. The Race Betterment Foundation, Battle Creek, Mich.

We are all accustomed to the idea that general death rates cannot be employed to compare the standard of health and mortality in two communities unless the age distribution is the same in those communities. The expectation of life at birth is the reciprocal of the general death rate, and if one is not a good measure the other can be no better. A little consideration will also show that the expectation of life at birth taken alone is not a good measure of longevity. The age distribution of this gain must be determined. If it is all or nearly all under age fifty, it cannot be inferred that those who are living at ages beyond fifty are any better off than before. If the rates of mortality beyond age fifty remain the same, the expectation of life at this age will not be changed and we have only nursed more people up to the age of fifty to be leveled off by the grim reaper in the same ratio as before. These rates unchanged will kill off ten million people at the age of fifty and over in the same time and proportionate incidence as ten thousand people.

This statement taken by itself might lead one to think that there is not even

produced. It is quite true, as Mr. Glover states, that practically nothing has been accomplished in this country beyond age 52, but he has neglected to call attention to the fact that in other countries relatively a great deal has been accomplished beyond age 52, and that in England and Wales and the Scandinavian countries there has been a substantial extension of the lifetime beyond that age—in other words, a reduction of the death rate at practically every age period of life.

ENGLAND AND WALES

Returning for the moment to the subject of Spencerian tragedies, a number may be found in the British vital statistics. The following comparisons, carried back seventy-six years, show that at ages 55-65 there has been a drop in the death rate of 28 per cent; at ages 65-75, of 16 per cent; at ages 75-85, of 12 per cent; and above age 85, of 6 per cent.

CHANGES IN THE DEATH RATES AT CERTAIN AGE PERIODS
IN ENGLAND AND WALES DURING THE PAST 76 YEARS

Ages	1851-60	1901-05	1921-25	1925-27	Degree of Spencerian Tragedy
					Per cent
55+	28.9	27.5	21.5	20.8	+28
65+	61.7	58.1	51.6	51.8	+16
75+	139.9	127.0	122.7	123.6	+12
85+	296.5	262.4	255.0	277.6	+ 6

a remote possibility of extending the extreme span of human life, whereas Mr. Glover is merely endeavoring to force home the point that we must not be too optimistic with regard to the future because of the apparent lengthening of the span of life.

I have already discussed the importance of going behind the figure of the expectation of life or the average lifetime, in order to ascertain how it was

There has, therefore, been a very definite extension of human life in that period in England and Wales—which effectually murders the deduction that the human life cycle is “fixed by nature.” Improved living conditions of various kinds have evidently brought about this profound change. While to some the factors may not seem extraordinarily large, nevertheless they are factors; hence they are fatal to the de-

duction that the human life cycle is fixed.

SWEDEN

In Sweden the expectation of life is greater at most age periods than in the United States. In the Scandinavian countries and Australia, the advantage amounts to several years or more at all but the extreme old ages.

Ages	Sweden	United States
Men	1901-10	1901-10
0.....	54.53	49.32
5.....	57.90	54.27
10.....	54.03	50.66
20.....	45.88	42.25
30.....	38.57	34.75
40.....	30.77	27.55
50.....	23.17	20.59
60.....	16.06	14.16
70.....	9.85	8.97
80.....	5.22	4.79
90.....	2.60	2.48

Obviously we are a portion of the same race that inhabits these other lands where increased longevity has been attained, and there is no reason to doubt that by some scientific means we can accomplish similar results in this country. The fact that we cannot report any such substantial improvement after age 50 is a matter for regret but certainly it points the way to an active militant attitude toward the problem, rather than a static or reactionary one.

STATIONARY MORTALITY IN MIDDLE LIFE PECULIAR TO UNITED STATES

The phenomenon of a practically stationary death rate beyond middle life in this country has attracted a great deal of attention. For the past twenty years I have personally been deeply interested in this and have been continually calling attention to it. At first this thesis was received with considerable skepticism, until the over-

whelming evidence was available to prove the case. However, the fact that in life insurance experience there has been some improvement in mortality at the older ages, and the further fact that an emphatic lowering of the death rate under age 5, as well as fairly substantial gains under age 40 have been attained, certainly holds out hope that in due course we may achieve some success at the older ages stressed by Mr. Glover.

I see in the field of what I have termed "silent" sickness, the chronic insidious maladies of middle life and old age, an enormous opportunity, even greater than that heretofore offered in the field of infant hygiene and the diseases of youth. The fact that our knowledge of the causation and control of these insidious maladies of later life is comparatively limited, is the best reason for anticipating and predicting unprecedented gains and accomplishment in that field when, in the natural progress of scientific work, we fill in the gaps of our knowledge. Certainly we do not despair of the ultimate conquest of cancer, and yet we are far better posted on the causation of old age as a disease than we are on the causation and prevention of cancer.

THE REPORT ON NATIONAL VITALITY

In refreshing contrast to those who, if not actual calamity howlers, are at least standpatters, completely static with regard to developing measures having any important influence over the life cycle, we may point to the group of men who worked with Professor Irving Fisher in 1909 in the production of the Report on National Vitality. I can well recall, when that report was issued, the discussions that arose with regard to it among my statistical and scientific friends. It was criticised by many of them as fantastic

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guesswork, having no basis in scientific fact, and so on, and so on. That any such radical change in the death rates from various maladies then afflicting the human race could possibly be brought about as postulated by Professor Fisher and his co-workers, seemed to these men incredible. The report was looked upon as a dangerous utterance, in that the hope it held out to humanity was too great and could never be realized.

Yet what is the actual state of affairs today? That report may be checked up as to every important prediction made. I use the term "prediction" though, as a matter of fact, no definite forecast was made, except on the assumption that there would be coöperative public effort to apply the scientific information available in the conquest of various maladies mentioned, such as typhoid, tuberculosis, etc. The report was so conservative that it allowed no ratio of preventability as to cancer and small ratios of preventability in other diseases which we now view as probably coming under the control of science.

A brief summary of the facts presented in this report, and the extent to which the estimates therein made have been realized, should give us pause and detract somewhat from the dogmatism of those who suggest that science is, like Einstein's space, a closed and limited affair. Professor Fisher, commenting on this early study, in an address before the American Public Health Association in 1926,⁴ said:

These figures took no account of future advances in preventive science. They signified merely what could be attained by applying knowledge existing in 1908. This forecast of 15 years to be added to the human lease of life, though extremely conservative, seemed preposterous to many, when

published, just as today the Stephen Smith resolution setting a goal of 20 years seems to many quite preposterous. It is, therefore, interesting to note that, in the 17 short years since the Report on National Vitality was published, most of the preventabilities then estimated as possible have already been realized, and that almost all of the 15 years calculated as attainable have actually been attained.

Thus, Dr. Dublin tells us in 1922 that, since 1911, tuberculosis has declined 50 per cent among those insured in the Metropolitan Life Insurance Company and almost as much in the general population of a number of progressive cities; this 50 per cent already attained is two-thirds of the preventability set down for tuberculosis in 1909. That the remaining third is easily attainable is indicated by the Tuberculosis Demonstration in Framingham, Massachusetts, conducted by the Metropolitan Life Insurance Company. There the death rate fell 69 per cent in only 7 years; this is almost the total 75 per cent preventability set down in 1909.

Typhoid fever has declined 87½ per cent as against the 85 per cent set down as possible in 1909. Diphtheria has declined 44 per cent as against the 70 per cent set down, and now we know that diphtheria can be practically wiped out. It was recently announced by the American Museum of Safety that "twenty years of accident prevention in the plants of the United States Steel Corporation had resulted in a reduction of more than 60 per cent in fatal accidents and in a reduction of more than 80 per cent in less serious injuries to workmen"; in my 1909 report only 35 per cent was set down as the preventability of deaths by violence. On the other hand, the coming of the automobile has greatly increased the number of street accidents. Automobile accidents rose from 8 per million of population in 1908, to 149 in 1923. Consequently, deaths from violence (now called "external causes") of all sorts in the United States have fallen only 18 per cent.

Turning to diarrhea and enteritis, the census shows a decrease of 66 per cent while, as Dr. Dublin points out, the death rates in 23 American cities have declined by 79 per cent; both of these are more than the 60 per

⁴ *American Journal of Public Health*, January, 1927. Fisher, Irving, "Lengthening of Human Life in Retrospect and Prospect."

cent set down. In fact, as Dublin also points out, the whole infant mortality rate has been already cut 60 per cent; only 47 per cent was set down. The death rate of children at ages one to four years has already declined 50 per cent; 67 per cent was set down (for diseases of children having a median-death age from 2 to 8).

In a survey of health conditions in industry made by the Life Extension Institute in 1922 for the Committee on the Elimination of Waste in Industry, organized by Mr. Hoover and the Federated American Engineering Societies, it was shown that practically every important prediction and estimate made in the Report on National Vitality had been justified by subsequent experience. Our investigation revealed the fact that the average number of days of illness annually in the working population had been reduced to about nine days from a former estimate of thirteen. Basing our estimates on careful studies of representative groups, we were able to say that instead of there being 3,000,000 people constantly ill in the population, this

number had been reduced to 2,400,000.

Since the Report on National Vitality was issued in 1909, fourteen years have actually been added to the expectation of human life; that is, to the expectation as shown by the tables then available, which covered the death rate in Massachusetts for 1893-1897. Additional data from the Bureau of the Census has, since then, warranted the estimate that in 1900 the expectation of life for the Registration States was approximately that of Massachusetts, and it may be confidently affirmed that there has actually been an increase of ten years in the expectation of life in the past quarter century, that is, from about age 45 to 55. The latest figures justify an estimate of 59 years as the present expectation.

LIFE EXTENSION IN CERTAIN FAVORED GROUPS

However, there still remains much to be done. Dr. Dublin in a hypothetical life table⁵ published some time ago

⁵ Statistical Bulletin, Metropolitan Life Insurance Company, December, 1922, p. 1.

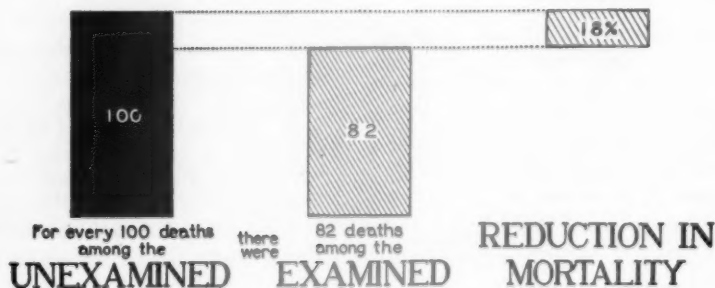
DO EXAMINATIONS PROLONG LIFE?

A study of 6,000 policyholders of the Metropolitan Life Insurance Co. shows

18% REDUCTION IN MORTALITY

among those examined from 1914 to 1924 by the

LIFE EXTENSION INSTITUTE



estimated that an additional ten years could be added to the expectation of life if all sections of the population could be brought under the favorable conditions that are enjoyed by certain special groups and communities where the death rates are unusually low. And yet he allows little or nothing for any improvement in the death rate beyond age 60. That health conditions are now ideal as applied to the individual rather than to the community is far from being the case. The investigations of the Life Extension Institute in the examination of more than 700,000 people show that civilized man is, on the average, still far below an attainable condition of health and vigor.

Among the specially favored groups in the population referred to by Dr. Dublin are insurance policyholders and industrial workers whose lives and bodies are periodically examined with a view to improving their health and prolonging their lives. Actuarial analyses of large groups of policyholders extend-

ing over a long period of years, demonstrate a reduction in the mortality of these groups of from 18 to 23 per cent.

A significant fact, fraught with much hope for the future along the lines of this discussion, is that in the group of substandard policyholders 50 to 60 years of age, the reduction in the death rate was 53 per cent, showing the opportunity that offers for corrective and preventive work in this older age group where, as has been pointed out, the death rate in this country remains practically stationary.

Statistical studies have been made revealing the mechanism of the influence of this constructive health work upon these groups. Among 1,000 policyholders, forming a representative cross-section of the population, it was apparent that at the time of the third yearly examination, 50 per cent of the disabilities found at the time of the first examination were cleared up. Similar results were found in a similar group of industrial workers.

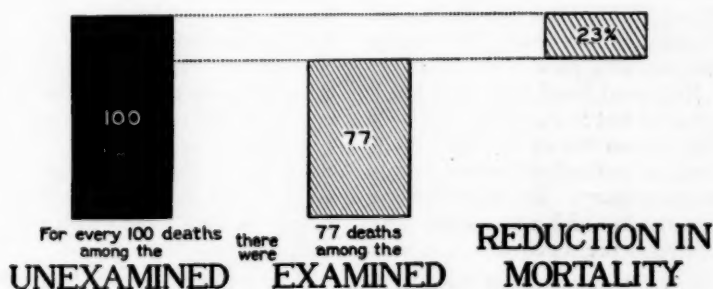
DO EXAMINATIONS PROLONG LIFE?

A study of 3163 policyholders of the Guardian Life Insurance Co. of America shows

23% REDUCTION IN MORTALITY *

among those examined from 1914 to 1925 by the

LIFE EXTENSION INSTITUTE



*Excluding extreme old ages the reduction was 26%

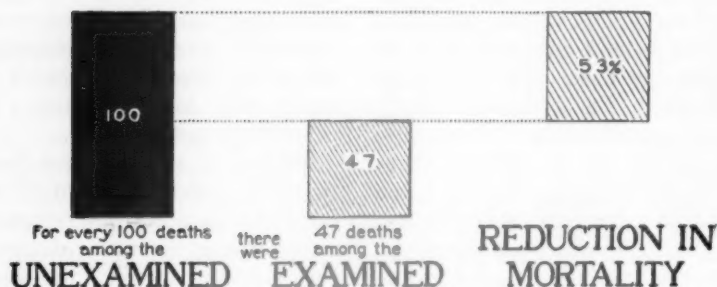
DO EXAMINATIONS PROLONG LIFE?

A study of policyholders of the Metropolitan Life Insurance Company having important impairments (substandard lives) shows

53% REDUCTION IN MORTALITY

among those examined from 1914 to 1920 by the

LIFE EXTENSION INSTITUTE



THE LIFE SPAN

From the experience now available as to the change in the human life span, Professor Fisher⁶ has advanced some interesting observations that have a very practical bearing. He says:

... As I pointed out in 1909, during the Seventeenth and Eighteenth Centuries in Europe human life was lengthening at the rate of about 4 years per century. During the first three-fourths of the Nineteenth Century, the rate was 9 years per century. During the last quarter it was 14 years per century in Massachusetts, 17 years per century in Europe in general, and 27 years per century in Prussia in particular. More recent data show that, in the first quarter of the Twentieth Century, for the United States, England and Germany, life lengthened at the amazing pace of 40 years per century. Raymond Pearl finds that Baltimore, during the last half century, has been lengthening human life at the rate of 30 years per century; while London shows a rate of 45 years per century. But it is Germany which again reaches high water mark with a rate of 60 years per century!

⁶ Fisher, Irving, "Lengthening of Human Life in Retrospect and Prospect," *American Journal of Public Health*, January, 1927.

But are these rates destined to keep up or are they, like the speed of 60 miles an hour which an automobile reaches for a brief moment, destined soon to recede? Dr. Hornell Hart of Bryn Mawr College believes that not only will the present rate be kept up, but even that its recent acceleration will be maintained. He concludes that, by the year 2000 the average duration of human life will be 100 years and that many babies will then be born destined to live to be 200. . . .

In England, in the middle of the last century, one quarter of the people died before they were 5 years old. In the beginning of this century one-quarter died shortly before reaching 40. Using the same two dates we find that one-half died by the age 45 in the last century and by 65 in this, while three-fourths died before the age of 70 in the last century and a little after 75 in this. Thus the advance in this third quarter of life was only a little over 5 years as against 30 or 35 years in the first quarter. The nearer we reach the century mark the less improvement do we find. The century seems to round out man's age which very, very seldom runs into three figures.

If we assume this 100 years as the limit, we must substitute for Hart's parabolic law of progress an entirely different type of

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STUDY OF GROUP OF 1000 POLICYHOLDERS SHOWING GAIN IN GOOD HEALTH BY CORRECTION OF DEFECTS NEEDING MEDICAL ATTENTION AS REVEALED IN PERIODIC HEALTH EXAMINATIONS

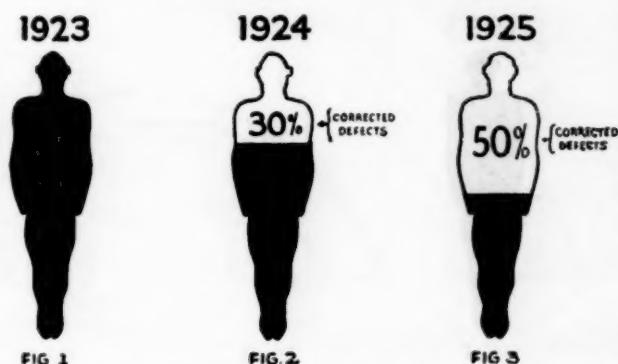


Fig. 1 represents the total number of defects found in group on first examination. (Need for correction then impressed upon worker.)

Fig. 2 Of these defects, 30% were corrected by the time of examination in 1924. (Attention again called to uncorrected defects.)

Fig. 3. A year later, 50% of defects had been corrected.

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curve the specifications for which may be: (1) that we start off at the present average duration of life in the United States, 58 years, and with the present rate of life lengthening, $4\frac{1}{2}$ years per decade; (2) that this average shall approach 100 years as a limit; and (3) that its rate of increase, relatively to the possible room for improvement still left, shall be maintained at 10 per cent, or about the present rate. The figure 58 years is that shown by Dublin to represent the average in the registration area in 1921, 1922 and 1923 in the bulletins of the Metropolitan Life Insurance Company. The results of such a forecast are:

Year	Forecast of the Average Duration of Life
1922.....	58 years
1930.....	61 "
1940.....	65 "
1950.....	69 "
1960.....	72 "
1970.....	75 "
1980.....	78 "
1990.....	80 "
2000.....	82 "

STUDY OF GROUP OF 1000 INDUSTRIAL WORKERS SHOWING GAIN IN GOOD HEALTH BY CORRECTION OF DEFECTS NEEDING MEDICAL ATTENTION AS REVEALED IN PERIODIC HEALTH EXAMINATIONS

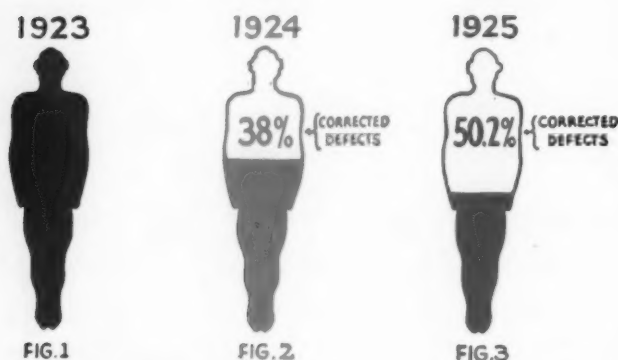


Fig. 1 represents the total number of defects found in group on first examination. (Need for correction then impressed upon worker.)

Fig. 2. Of these defects, 38% were corrected by the time of examination in 1924. (Attention again called to uncorrected defects.)

Fig. 3. A year later, 50.2% of defects had been corrected.

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By the year 2100, the average duration of life would be 94 years; in another century it would be 98 years; in another, 99 years; and thereafter it would remain between 99 and 100, all the time approaching closer to the unattainable limit, 100 years.

According to this schedule, the average lifetime would reach Dublin's estimated increase at about 1940; would nearly reach our committee's quota of 20 years additional within the 50 years specified; and, by the year 2000 would reach the highly respectable figure of 82 years.

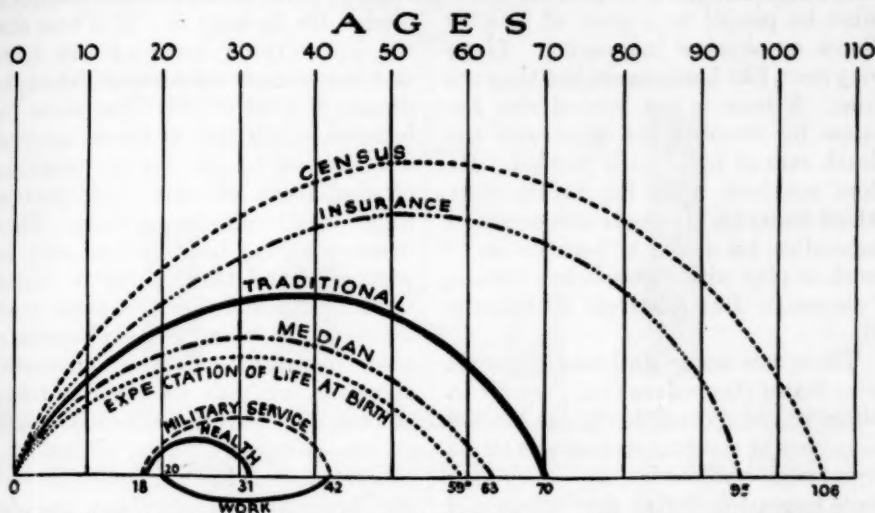
These results seem conservative; for cer-

tainly 100 years is a safe figure for the extreme limit of life and a progress every decade of 10 per cent of the room for improvement left seems, on the basis of past experience, a very safe figure. We ought to have considerable confidence that we shall actually beat this schedule and become a nation of octogenarians by the end of this century.

THE HEALTH SPAN

I have ventured to subdivide the life cycle into certain phases, as depicted in the accompanying chart.

HEALTH SPAN-LIFE SPAN



(18-31) HEALTH SPAN or Period of Physical Freedom and Full Vigor

(20-42) WORK SPAN or Period of Maximum Productivity in Industry

*1927 - Total Persons - Registration States of 1920

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My contention is that the health span, the period during which an individual enjoys exuberant health and has abundant resources to meet unusual stresses and strains, is only about 10 years after early maturity. We see this well illustrated in the history of the prize-ring and athletics. It is rare for a man to be able to enter strenuous competitive athletic sports after age 30, with any confidence in overcoming younger men of the same class. Already at that comparatively early age there is a yielding of vigor and of reserve power. With good luck or good management the life may go on for another fifty years, functioning fairly well, yet never attaining the full peak of health.

Putting aside, therefore, the question of the mere lengthening of the life span, it is evident to anybody who studies the

question, that there is something to be done within the life cycle in the matter of improving it and making it more worth-while to live even the traditional three-score years and ten.

THE WORK SPAN

I have fixed the work cycle as extending to age 42, because that is the approximate age at which eligibility for military service and the limit for acceptance for industrial work is usually fixed. A vast amount of the world's work is done by men between 40 and 60 years of age and even beyond, but military governments and employers of labor are not seeking men in that age period for service, although frequently they are glad to retain them. This has always impressed me as a startling and pitiable situation. Assuming, for the sake of convenience, that the life cycle

of man is approximately three-score years and ten, it is an appalling thing that about one-third of that life cycle must be passed in a state of relative illness or physical incapacity. These may seem like hard words, but they are true. A man is not labeled sick because his reserves are gone and the death rate of his class is trebled. He does not look upon the bodily state which limits his physical excursions and capacities, his ability to bear strain, to work or play with absolute freedom, as "disease." But relatively the man is ill.

There are some unthinking people who flatter themselves that they are in better physical condition at age 45 than they were at age 30. Sometimes this is true but as a rule it is not. They may have learned to dodge the "slings and arrows of outrageous fortune" more successfully; they may have adjusted their lives so that they live with less consciousness of strain; in some cases active disease may have been overcome, and these I except. But the body is older in a physical sense and there is not the same latent power and force to struggle with environment. The death rate tells the story. At age 45 it is more than double what it is at age 25.

After close study of hundreds of thousands of individuals in all walks of life with regard to their physical characteristics, their disabilities, their diseases, their problems of living, I am not in the least impressed with the inevitableness of this wretched state of affairs. On the contrary, there seems to be here a wonderfully fertile field in which science may work for the creation of a happier and more capable race.

As already suggested, the greatest gains in vitality have been under age 40, and particularly under age 5. If it is possible to cut the death

rate down under age 5 and under age 40, one great principle has been demonstrated—that of the possible control of human life by science. It is true that the difficulty of lowering the death rate increases as we advance decade by decade toward elderly life, since the heaviest death rate at those age periods is caused by the slow accumulation of disabilities affecting more particularly the organic system. These diseases having been studied only superficially and there being no immediate spectacular cures for them available, such as we have in diphtheria, or any palpably effective preventive measures, such as we have in tuberculosis, they have been treated mostly on an emergency basis. Recently a concerted effort has been made to check the devastation from these so-called degenerative diseases—involving the heart, blood vessels, and kidneys—and much is to be hoped from such effort. There is no inherent improbability or impossibility of finding means to prevent or retard these organic changes, even though they fall into a different class from the epidemic diseases which have been comparatively easily controlled by specific methods. However, to acknowledge that a thing is difficult is not to say it is impossible.

"SILENT" SICKNESS

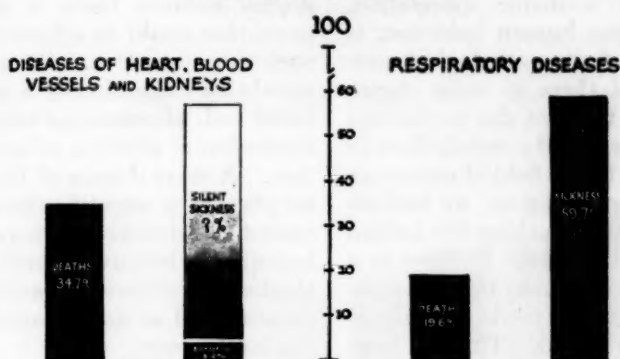
In commenting on the stationary mortality of middle life in this country I have referred to so-called "silent" sickness. What I mean by this phrase is best revealed in a certain sickness survey made some time ago by the United States Public Health Service,⁷ the results of which are set forth in the accompanying chart.

This study, based on sickness records for 7,200 white persons of all ages and the mortality among the total white population of Hagerstown,

⁷ Reprint No. 989, Feb. 13, 1925, p. 279.

SILENT SICKNESS

PERCENT OF TOTAL



Based on sickness records of 7200 white persons, all ages, and mortality among total white population of Hagerstown, Md., over a period of 28 months.
(Records compiled by U.S. Public Health Service)

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Maryland, covering a period of 28 months, shows that while the sickness rate from respiratory diseases was 668 per thousand (59.7 per cent), these diseases constituted only 19.6 per cent of the death rate. On the other hand, while the sickness rate from diseases of the heart, blood vessels, and kidneys was only 36 per thousand (3.2 per cent), these diseases constituted 34.7 per cent of the death rate.

Another interesting point brought out is that at ages 45 to 64 it was found that the number of illnesses per death was only 50; while at ages 15 to 24 the number of illnesses per death was 200.

Many may quarrel with the term "sickness" as applied to an individual who is not laid up or conscious of any trouble—but the sickness is there just the same; and it is far more serious in its individual and community significance than in the comparatively trivial ailments that figure so prominently in the morbidity records.

WHEN "SILENT" SICKNESS SPEAKS

Let us consider for a moment a mortality picture of our own country as shown by one year's experience. In the United States Registration Area there were reported in 1926—the latest available statistics—1,285,927 deaths. The following outstanding chronic diseases contributed nearly one-half of this mortality:

	Deaths
Heart and circulation.....	237,010
Kidney disease.....	106,311
Cancer.....	99,833
Tuberculosis.....	91,568
Apoplexy.....	90,167
Diabetes.....	18,881
	643,770

Inasmuch as the Registration Area represents but 89.8 per cent of the population, it will be seen that the total number of deaths from these chronic

troubles throughout the country is more than 700,000 annually.

Here we are dealing with actual facts and not with academic speculation. This tremendous human holocaust is the result of definite pathological accidents, most of them in some degree preventable. It is not due to the fact that nature has "fixed a certain limit to human life." In the field of nature we find these things going on, we find organisms at work, attacking the human body in definite ways. If there is a definite mode of attack, there is, conceivably, a definite mode of defense that could be devised. This has been done in practice, as in the case of diphtheria. As we probe these questions, we are continually confronted by difficulties—enormous difficulties—but seldom by impossibilities.

After all, what is this "silent" sickness when it moves slowly? Is it not, in fact, the ageing process? Are not the majority of these people suffering from "silent" sickness merely showing the effects of ageing which at times become accelerated until there is a flare-up and it "speaks" in the form of some organic disease?

You see how easily I fall into using the expression "ageing" in discussing this matter! Of course, by that I mean the reflection of incident factors which occur in the course of time and which in that sense constitute phases of ageing.

THE NON-FIXITY OF THE LIFE CYCLE

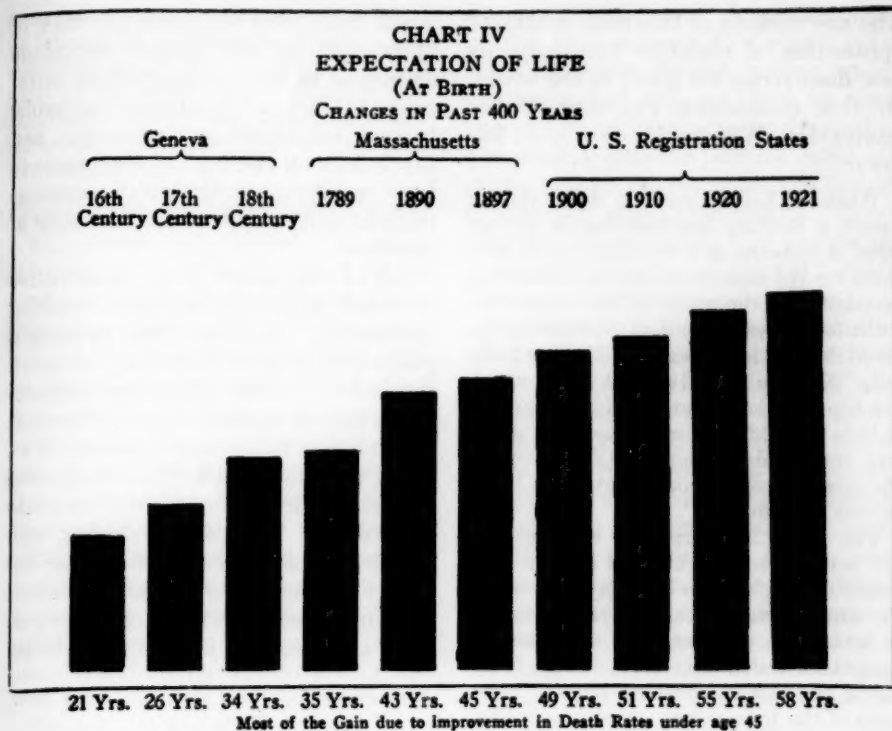
As in most problems of such magnitude, there is much arguing around in a circle in discussions involving the extension of human life. Starting with false premises, inextricable confusion often arises in these matters; hence the utility, as I view it, of beginning with first principles and considering the logical basis upon which rests, on the one hand, the postulate of the non-fixity of

the human life cycle, and on the other hand, the dogma of the fixity of the human life cycle. I use the word dogma because there is no possible proof that could be offered to support such a contention. It is, in fact, merely an expression of a semi-mystic belief and, of course, in some cases an expression of absolute religious conviction. A mere dogma of this kind has no place in a scientific discussion. It cannot be advanced even as a working hypothesis, because actually it is unthinkable, without drawing in the supernatural as an explanation of the "fixing" power.

We are able to say, from a study of the past, that the human life cycle has, in fact, not been fixed by edict or by anything but events. It happens to have been changing rather rapidly in the past thirty years; indeed there has been a gradual change in the past three or four centuries, as the accompanying chart indicates.

This chart must be analyzed in order to discern its true story. Distinction should be made between the expectation of life at birth, which is a certain mathematical figure, a reciprocal of the death rate at each age period, and what is known as the life span. In non-technical language, the life span, as I view it, is the age at which a considerable number of people will survive. A step in that direction is the so-called median-age at death, that is, the age at which one-half of any given population will be dead. At the present time this is 63 years. This, however, is not exactly what the man on the street is seeking to know. He desires to know the age which is considered to be a not unattainable goal for a man fairly fortunate in his heredity and in his life history. This is better fixed by taking the expectation of life at middle age, say age 50. This is about 21 years; so we may figure that a man at age 50 has

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reasonable prospect of living 21 years, which establishes a life cycle fairly in accord with the traditional three-score years and ten. It is not uncommon for men to live ten or fifteen years beyond this in a fair state of activity and usefulness, but I think that as a practical matter we may accept the three-score years and ten as a fair expression of human longevity. To put it in exact mathematical form, according to the life tables of the United States Census for the Registration Area, out of a theoretical male population of 100,000 born on a given date, 30,217 will be surviving at age 70.

A considerable extension of the human life cycle will be achieved by pushing this survival group fifteen or twenty years ahead and thus changing the whole mortality curve. The average lifetime, which means the expecta-

tion of life at birth, is produced, as I have pointed out, by the death rate at each age period. When the death rate at any particular age is very much lowered, this affects the average lifetime, although it might not add to the ultimate span of life.

As Professor Fisher has stated, the practically unchecked progress throughout the centuries, of a rate of life extension, must ultimately come under the operation of the law of diminishing returns. But who shall say when that law will become operative? Our present abysmal ignorance of the nature of life and its source reveals an almost unlimited field of effort. The amazing complexity of the human organism places almost no limit on the possible formulae yet to be developed for its control.

One great difficulty met by those

who are working in this field, is lack of application of scientific knowledge as new discoveries are given to the world. In this connection Professor Fisher quotes Dr. William H. Welch as follows:

When a Koch discovers the tubercle bacilli, a Banting discovers insulin for the relief of diabetes, or a Von Behring an antitoxin for the cure of diphtheria, or a Park demonstrates the value of the toxin-antitoxin for the prevention of diphtheria, the world draws a long breath as if saying to itself, "Now we are rid of that terror which has haunted the human race for centuries." It then straightway forgets and goes on its way comfortably assuming that of course the great discovery, or invention, is being carried into effect.

The actual facts are quite different. A few people, those of unusual initiative, or ample means, or who happen to be under the care of exceptionally alert physicians, or within the jurisdiction of exceptionally competent health officers, receive the benefits of the new discoveries; but the great mass of the human race goes on as before, and the death rate from these diseases is reduced slowly and over long periods of time.

In fact, the health field has a woefully ineffective distribution service, as compared with the laboratories of the world. We know how to do a lot of things which we do not do, or do on a wretchedly small scale. Few of the great discoveries of preventive medicine, except the prevention of yellow fever, are anywhere nearly fully applied.

Dr. Welch is entirely right. In spite of toxin-antitoxin and in spite of insulin, both diphtheria and diabetes still exact their toll. Diphtheria is gradually being conquered, but the death rate from diabetes has increased of late years, in spite of the use of insulin and in spite of the common knowledge that this disease is most prevalent among overweight types and among those who over-indulge in fattening food. As suggested elsewhere in this paper, three factors should be considered in connection with the increasing

death rate from diabetes: (1) lack of knowledge of the expert technique employed in the administration of insulin; (2) the indifference of the public to such conditions as overweight, and (3) failure on the part of the public to have regular periodic health examinations in order to detect the first signs of diabetes.

All of this shows how conservative we must be in the matter of making prophesies. It is one thing to make a prediction; it is another thing to state a possibility. With full public coöperation there is no doubt that a tremendous change in the death rate could be brought about, as Dr. Welch suggests, by the application of known scientific knowledge. Thus we are dealing with certain problematical factors: the degree of willingness of mankind to adopt life-lengthening methods, and the possible extension of human knowledge.

GROPING TOWARD THE ROOT OF THE PROBLEM

Fortunately in the consideration of matters relating to the life cycle of man and the ageing process, there are scientific workers with a "fanaticism for veracity" who dig beneath the surface and grope toward the root of the problem. The following is quoted from a scientist ³ of this type:

To arrest the ageing process in man or lower animals does not for any reason seem more impossible than to arrest development at different stages of incompleteness. The absence of a thyroid gland arrests the development of a child somewhere during the stage of its first few years following birth, and such an arrested child may remain a three or four year child, so far as development goes, for thirty years. Why might it not be possible to stabilize the chemical constitution of a human being at twenty-

³ Stockard, C. R., "Present Status of the Problem of the So-Called Rejuvenation," *Bulletin of the New York Academy of Medicine*, December, 1928, p. 1241.

five years of age and maintain such a chemical balance for an indefinite period? This individual would stay a twenty-five year adult for the rest of life and would not undergo the constitutional changes or chemical modifications characteristic of regressive body history.

MODIFICATION OF THE GERM PLASM

Many workers in this field follow the allegorical trail when it comes to the question of heredity and the modification of the germ plasm. They accept without question the dogma that nothing that happens during life can affect this particular substance, that environmental influence can have no effect upon it, and that it goes on and on, inviolate, invincible, unassailable, omnipotent—here a vocabulary fails me for expressions indicating the exalted nature of the germ plasm as seen by many. So emotional has been the attitude assumed toward this problem that poems have been written apotheosizing the germ plasm!

That any tissue of the human body should be so all-powerful, so exclusive, strains one's credulity. Certainly no such thesis can stand up under logical analysis. Admitting the great power of the germ plasm to influence, for example, the type of organism that is born, and determine whether or not it shall be a horse, a dog, or a man, what reason is there to believe that it consists of some original substance placed on the earth with all these miraculous attributes, entirely independent of any possible environmental influence, past, present, or to come?

No one has solved the mystery of the germ plasm, but we may indulge in logical inquiry as to possible influential factors. Certainly at some time following the appearance of life on this globe, forces must have been at work molding and changing the tissue of the germ plasm. That changes in the characteristics of species should come

about without cause, is unthinkable.

This may appear to be going far afield from the subject matter under discussion, but I do not think so, since two important factors to be weighed in any inquiry into the possible extension of the human life cycle are the factors of heredity and environment. If we take the semi-mystical view in relation to the germ plasm and place it beyond the reach of science to control, we have placed a limitation upon scientific effort which, I claim, is not justified.

In considering this problem we may ask with reason if, as we now know, a vitamin may determine whether or not a prospective parent shall have any progeny at all, this surely constitutes an external influence on the germ plasm, and the principle having been demonstrated even in one particular instance, a practically infinite expansion of it may be assumed until proof to the contrary is available.

Oscar Riddle⁹ of the Station for Experimental Evolution of the Carnegie Institution, offers some remarkable evidence as to the fundamental plasticity of the germ plasm in a recent discussion of the control of sex. While it is not possible here to discuss in detail analysis of his thesis, he presents strong experimental and laboratory evidence to support his contention that in such animals as frogs and birds the reversibility of sex is possible through laboratory measures.

Next to the species, the sex of an individual is one of the most outstanding contributions of heredity, and if such a fundamental and supposedly fixed characteristic as this can be changed by artificial means, this at once destroys the supposed inviolability of the germ plasm and lays it open to some degree of scientific control.

Riddle recognizes the far-reaching

⁹ *Journal of the American Medical Association*, Mar. 23, 1929, p. 950.

significance of such a thesis. He rightly says:

... The disclosure of mechanisms and of new evidence of interrelationships is vital to progress; but indispensable also are new standpoints from which to look forward. Such a progressive and most hopeful point of view is evidently near at hand in a very real redefinition of what is involved in the word heredity. This redefinition seems to me so important to medicine, and to the control of all the life processes in man, that my last word here must be about it.

It is now becoming clear that the specific conditions under which a gene or genetic factor operates and develops have an equal value with the genetic factors in the determination of anything that can be called heredity. The factors distributed by germ cells set limits to the nature and appearance of adult characteristics; so do specific conditions. The matter of the control of any characteristic can be approached from either of these two sides. Many different studies during the last decades have helped to prepare the way for this new point of view. But the complete control and reversal of sex in several forms—with its implication of the theoretical possibility of its control everywhere—together with the probable identification of the particular and specific condition (metabolic rate) which here completely overrides the influence of the genetic factor—these events have adequately demonstrated the possibility of making either of many different types of individual out of identical germinal material. Heredity is controlled whenever and wherever development is controlled. Medical science will, for example, doubtless soon be provided with a relatively pure preparation of a hormone of the anterior pituitary with which the infant can be made sexually mature, as has been done already in the rat, mouse and bird. Of course, this agent will not be used precisely thus, but the advent of this specific agent sharply illustrates one type of specific condition with which one can overcome the might of heredity; and future research is sure to provide this and other types in such variety as will bring to medicine a new kind of beneficent power.

It is not my purpose to open up extensively in this paper that scientific question which has aroused almost as much high feeling as discussions regarding prohibition—namely, the possible inheritance of acquired characteristics—but surely it seems to lie within the power of science to influence the germ plasm. At least, it is my contention that there is no adequate scientific proof to the contrary, and until such proof is forthcoming, such a working hypothesis is tenable.

Dyed-in-the-wool Weismannites ignore certain clinical evidence now available pointing strongly toward the fact that the germ plasm is open to some instruction from science. If we can cite even one particular instance where there has been a favorable influence on progeny through favorable adjustment of the organism of the parent, one principle has been set up and another principle has been shattered. The question then is merely one of degree: How much knowledge can we attain the application of which will exert an influence on the germ plasm?

VARIATIONS IN THE LIFE CYCLES OF VARIOUS ORGANISMS

We will leave this attractive field for the moment to concentrate on the immediate problem of the variation in life cycles of various organisms, including man. Let us first address ourselves to the oft-reiterated statement that there is a natural limit to human life or to the life of any organism. My contention is that at once this introduces the supernatural as an explanation of natural phenomena. If there is indeed a natural limit to human life, this must have been fixed by edict and not by evolution. Some power must have declared that human life shall be three-score years and ten; that "thus far shalt thou go and no further."

If we exclude the supernatural and

pin our faith to nature—in whose name, like liberty, so many scientific crimes are committed—we must face the fact that nothing in nature is static. The solar system is moving. The solid earth is changing. One scientist has estimated that ten million species have been evolved and died out in the course of the earth's history.

That the life cycle of man as a natural phenomenon should be changeless and independent of any possible outside influence or control is, in fact, a *reductio ad absurdum*. It cannot be logically expressed in thought unless we fall back upon the Deity and assume that this life cycle is indeed fixed by act of God. With those who take that view as a matter of religious belief, I have no quarrel at all; but keeping within the field of practical science, I claim that man is a plastic organism, that both in his heredity and in his individual development he offers opportunity to science to exert a modifying control, limited only by the body of scientific knowledge and the intelligence available for its application.

The extension of life cycles in the laboratory is now a commonplace. One of the most spectacular instances is found in the work of Dr. Alexis Carrel, who has taken the connective tissue cells of the heart of a chicken embryo and has kept them alive and multiplying in a test tube for the past 17 years. Carrel has pointed out that these cells, which continue to grow without check, did not undergo the limiting phenomenon universally characteristic of the cells in a composite organism, namely, that of growth. He has made the statement that if all the cells grown from this strain of connective tissue had been preserved, they would now fill the whole universe. Dr. Carrel naturally raises the question as to whether the limitation of growth does not place a limitation on

the life cycle of any organism. This, in a superficial sense, may be true; but the question always remains unsolved as to whether the arrest of growth may not occur under proper scientific control coincident with a preservation of the vital powers of the organism. Carrel,¹⁰ in speaking on his experiment before the Race Betterment Conference in Battle Creek last year, closed his discussion with the following statement:

In spite of the fact that higher animals will never reach immortality, there is some hope that the duration of their life may be artificially increased. The solution of this problem, as well as of the far more important one of improving the quality of living beings, rests on the future progress of cell physiology and of the chemistry of nutrition. It is for this reason that I have considered it appropriate to lay before the members of this Conference the results obtained by one of the most powerful methods created for the investigation of cell functions. Through these experiments, the immortality of animal tissues, and some of their fundamental properties, have been revealed to us. For the present, these findings are only of theoretical interest. But we know, as Claude Bernard has aptly said, that the knowledge of nature always leads to its mastery.

Other experiments just as completely demonstrating in the laboratory the soundness of the thesis of the possible extension of the life cycle of an organism—and this time a fairly complex one, the fruit fly—have been presented by Loeb and others. The life cycle of this organism has been prolonged 900 times the normal merely by keeping it at a lowered temperature and protecting it from adverse external factors, such as infection and poison.

¹⁰ Carrel, Alexis, "The Immortality of Animal Tissues and Its Significance," *Proceedings of the Third Race Betterment Conference*, p. 314. Race Betterment Foundation, Battle Creek, Mich., 1928.

It is a well known fact that the life cycle of the tadpole can be profoundly altered by feeding thyroid extract. The life of the unfertilized egg of the star fish and of the sea urchin, ordinarily brief, can be prolonged by reducing the supply of oxygen. Earth worms have been kept for ten years. The fresh water mussel may live 40 years, a turtle 200 years, and the ancient dinosaur was thought to have a life cycle of 800 years.

The California redwood tree is practically immortal, while other plants, the annuals, die after fructification, and yet in the case of *aenotheras*, DeVries showed that by cutting the stem sufficiently early the plants are induced to develop new buds at the base and these buds survive winter and resume growth the following spring.

MacDougal's¹¹ researches have shown that medullary cells of the tree cactus (*Carnegiea*) remained alive for periods well over a century and that these cells showed active enlargement over the second half of the century. Another cactus, the melon cactus or *bisnaga* (*Ferocactus*), was found to include similar medullary cells of great age which, however, ceased to grow after the first decade. In all of these cells the carbohydrate components, pentosans and hexoses progressively decrease with age. The fatty substances, or lipins and nitrogenous substances, change least.

Here we see the problem of age, growth and death as a bio-chemical one conceivably subject to great variation and also to scientific control if we had sufficient knowledge to bring that about. No one pins a label on such a plant or hangs a time-clock on it stating just how long it shall live. The fact that the cells in these living or-

ganisms persist actively over so long a period of time tends to call a halt on the dogmatic thesis as to the fixed duration of human life or any other form of life.

From the same field and the same author we have testimony as to the persistence of living cells in the parenchymatous layers of the *Sequoia sempervirens* (California Redwood tree). We are all familiar with the fact that these trees live for several thousand years, but it has been assumed that many of the layers were dead and that new living cells simply overlaid them. Professor MacDougal has shown that in the inner layers of these trees the original cells, with an estimated age of 400 years, have shown life and activity.

There is a sort of superstition with regard to life of any kind that it cannot persist much over 100 years. This seems to be purely a myth without any scientific foundation since this imaginary dead line has been crossed repeatedly by living organisms.

No one who gives any thought to the matter can question the fact that as an organism becomes highly differentiated, so also does the problem become more and more difficult. It has been said that a limited lifetime is the price that man pays for his highly differentiated state of body and mind. However, this is not a complete answer inasmuch as we have instances in nature of complex organisms which have enormously longer life cycles than man, such as the elephant, the dinosaur, and the turtle. These organisms have highly differentiated nervous, circulatory and renal systems and, in the case of the elephant, a highly developed cerebral system.

CAUSES OF DISEASE, OLD AGE, AND DEATH

In my work I have endeavored to reduce this thesis to positive terms and

¹¹ MacDougal, D. T., "Long-Lived Cells of the Redwood," *Science*, Nov. 11, 1927, Vol. LXVI, No. 1715, pp. 456-457.

have made a grouping of the types of influence that bring about disease, old age, and death. It is my feeling that these categories are logically complete, although all the specific influences under each item cannot now be named. As new types of destructive influences are disclosed, however, they will find a place, I believe, under one or more of the categories which follow:

- Heredity
- Infection
- Poisons
- Food deficiency or excess
- Air deficiencies or defects
- Hormone deficiency or excess
- Physical trauma (or strain)
- Physical apathy (or disuse)
- Psychic trauma (or strain)
- Psychic apathy (or disuse)

This systematic approach has the merit of avoiding any one-track road or narrow thesis as accounting for ageing and death not due to acute disease.

MAKING THE FIT FITTER

Health standards are gradually being improved as a result of health education. With the extension of the preventive ideal in medicine we are arriving at the place where we are not satisfied with merely *average* people. No longer do we separate the sick from the well and conclude that the well may go about their business without any attention from science—until they meet some health disaster. There are but few people whose physical condition cannot be improved to some degree by the intelligent application of available scientific knowledge. As such knowledge accumulates and broadens, surely the power to build up humanity will increase and a very different standard of so-called normal health may fortunately be set up.

It may be recalled that in the first onrush of enthusiasm over eugenics the postulate of a super-man arising through

superior mating was put forward. Few can question that if it were possible to bring about at one stroke a mating plan that would involve the union of types selected on the basis of their superior physical and mental endowments, an immediate increase in longevity could be attained, but there would be a very definite limit to what could be accomplished through such means. Nothing could be secured through the germ plasm that is not already in it, and if we were able to mate throughout the world those from families where the average longevity is, say, 80 years, that would be the limit of our possible attainment in the way of increased longevity—unless, of course, some way could be found favorably to influence the germ plasm—a measure by no means beyond the reach of scientific effort.

In the main, however, it seems to me that if any great extension of the life cycle is to be attained, it must come rather through eutenic measures, through specific influences applied directly to the individual. As science progresses, it is not beyond the bounds of possibility to find hormones or specific substances that may compensate the individual for hereditary insufficiencies of a certain range. Gross hereditary deficiencies constitute social liabilities that can probably never be entirely eliminated, but the lesser degrees of insufficiency may in time be met by specific scientific means, and those individuals with poor inheritance may be better equipped to survive and assist in doing the world's work.

Oftentimes in such discussions people lose sight of the fact that as science advances and devotes its attention to the unfit, there may reasonably come about some attention to the fit—paradoxical as that may seem at first glance.

Personally, I do not view the unfit as a small, highly-specialized group in

the population. In the course of more than 750,000 physical examinations, the Life Extension Institute has never found a perfect individual. Always there is some physical defect the correction of which would have at least a minor favorable influence on the life. This brings to light the point that if science works consistently with the whole population, not only will the unfit be benefited but the fit will be made fitter, and the curve of human excellence improved throughout, instead of the unfit accumulating as a burden on the shoulders of average types.

A good illustration of this principle is found in the experiments of Professor Henry C. Sherman of Columbia University, on the nutrition of rats. In these researches it was found that by including generous amounts of milk and wheat in the diet, the growth curve and physical state of the rats was improved far above the average. Control rats on average diets were contrasted with those receiving the special diet, and there resulted the actual production of super-rats on a super-diet. The problem was not the correction of diet deficiencies or the bringing of an inferior rat up to an average standard of health; it was adding something to the healthy rat that it had not theretofore possessed.

Turning briefly to the second category, how much have we really accomplished in the matter of protecting the human organism from infection or eradicating the results of infection? Dr. Charles H. Mayo has stated that 85 per cent of the deaths that come under his observation are due to some form of infection. It is true that we have fought more or less successfully certain epidemic and endemic infections, such as yellow fever, but there are other widespread infections, such as focal infection, that we have hardly

begun to fight. Tuberculosis still takes a heavy toll of life. Influenza is more terrible than war. Within this one category it is likely that science will be working for the next thousand years before even fifty per cent of the problem is solved.

Food deficiencies offer another almost limitless field of possible adjustment. I do not refer merely to the prevention of such obvious deficiency diseases as pellagra, rickets, scurvy, beri-beri and the like, but to those sub-standard states of health which have to do with faulty body chemistry and metabolism. I have already referred to the extension of the life cycle of rats through the adjustment of their diet on a basis of super-nutrition. What may be accomplished through the better dietetic government of the expectant mother, possibly of the expectant father as well, and the superlative foundation nutrition of the child cannot be predicted.

APPLICATION OF LIFE EXTENSION PRINCIPLES TO DAILY LIFE

One of the main reasons why predictions regarding the duration of human life in either the immediate or distant future are hazardous lies in the unknown factors of human interest and will power.

When the Devil was sick, the Devil a monk would be;

When the Devil was well, the devil a monk was he.

This state of mind reflects to a certain degree a normal physiological and mental attitude. A reasonable amount of self-confidence is essential to mental as well as physical health.

As though some real personal devil had stacked the cards against us, the most serious disease conditions that connote ageing and often bring about premature death, do not reveal them-

selves through the symptom of pain, except in advanced stages. Such discomfort as they may bring about develops "silently," as I have already pointed out, and so slowly that it is only by a sharp, crisp and honest comparison with early days and former activities that we realize how "time," as we usually express it, has dealt with us. Hence it is difficult to plan and carry through a life extension régime requiring a stifling of the normal or natural average viewpoint, and to conform to a régime based upon an ideal of health about 40 points higher than that held by the average individual.

NOT WISE TO WATCH ONESELF LIVE

This does not mean that it is wise to watch oneself live, in the sense that one's mind must be constantly fixed on the objective of health or longevity. Rather it involves a plan of life comparable to that applied in the running of a modern efficient business organization. In such an organization the responsible executives demand to know at certain periods how various phases of the business are functioning. In a life insurance company, for example, a gain and loss exhibit as well as a general report is made up annually. This is true of most corporations. In some lines of manufacture, as in the case of automobiles, a daily report is submitted of operations, productivity, etc.

In applying life extension principles in order to secure the longest possible lease of life, similar precautions are important. People actually should not think about their health at all except at stated intervals, when inspection of the business of living may show that the correction of some physical defect or habit of living is needed. At the outset of the organization of a life on such a plan, the individual should ascertain his type, his special needs, his limitations, his reserves. He must then

make up his mind as to just how much he wishes to pay for getting a "kick" out of life in the way of jeopardizing or spending his reserves.

THE RULES OF HYGIENE

Assuming that this principle is accepted, what then? The *modus operandi*, which I touch upon only incidentally in this paper, is not so difficult. It consists of application of the rules of hygiene as they are now known—adjusted or modified according to one's individual needs, deficiencies, weaknesses, and strong points, as determined by a periodic health examination at least yearly. In this paper the application of these rules to daily life is touched upon more for the purpose of emphasizing the opportunities of influencing the life cycle than to convey complete instruction on personal hygiene. The Life Extension Institute's Sixteen Rules of Hygiene, which it will be noted are closely related to the categories of causation already considered, are as follows:

1. Ventilate every room you occupy.
2. Wear light, loose, and porous clothes.
3. Seek out-of-door occupations and recreations.
4. Sleep out-of-doors if you can.
5. Avoid overeating and overweight.
6. Avoid excess of high protein foods, such as meat, flesh foods, and eggs; also excess of salt and highly seasoned foods.
7. Eat some hard, some bulky, some raw foods daily.
8. Eat slowly and *taste* your food.
9. Use sufficient water internally and externally.
10. Secure thorough intestinal elimination daily.
11. Stand, sit, and walk erect.
12. Do not allow poisons and infections to enter the body.
13. Keep the teeth, gums, and tongue clean.

14. Work, play, rest, and sleep in moderation.
15. Breathe deeply; take deep-breathing exercises several times a day.
16. Keep serene and whole-hearted.

These rules are designed to meet such factors as bad heredity, infection, poisons, food deficiencies and excesses, hormone deficiencies, mental and muscular disuse, mental and muscular injury, and organic strain. In those instances where life has been prolonged among organisms in the laboratory, which is discussed elsewhere in this paper, it will be found that the categories of causation have been met by the application of just such rules as these—in some instances, merely by protection from infection, the elimination of poisons, and balanced nutrition.

WHOLESOME RECREATION

Perhaps the greatest weakness in modern hygiene lies in the poverty of resources with regard to furnishing positive methods of recreation that will act as substitutes for indulgences which may or may not be harmful. In this the leaders in hygiene have to contend with an *idée fixe* on the part of the public that unless there is some element of harmfulness in it, recreation does not amount to much. The average individual does not like to be regarded as a mollycoddle. A hint of wickedness also carries some suggestion of distinction in the minds of many people. Probably the great majority of women who smoke are actuated by some such psychological factor. This, it would appear, applies particularly to elderly women, many of whom may have wished to be a little reckless all their lives without daring to be. With this human trait we should be patient and understanding and not denunciatory—simply revealing and enlightening, and thus intensely disagreeable!

The exhilaration that accompanies abounding health is perhaps the most wonderful in all the world. There is no poison-produced stimulation that can compare with the natural riot of the blood in youth among reasonably healthy people. Just to cavort in the water, or climb a hill, or engage in sports that mobilize the hormones in one's blood—nothing comparable to this can ever be produced by any of the short-cuts to release from boredom which have been substituted by so many for the wide range of splendid stimulating and constructive activities accessible to all.

PAINTING THE LILY

In these matters too many blunder in attempting to paint the lily. The marvelous relaxation and interest of fishing, for example, must, with some, be overlaid by alcohol. Why not stop at the fishing and see how one gets along without the artificial stimulant? The same is often true with those who seek recreation in golf. Interest in the game itself, as in the case of trout or salmon fishing, must be overlaid by alcohol, and the picture as a true physiological relaxation is spoiled. Man is an adjustable and adaptable creature, with a very large factor of safety in all his organs and systems of the body; otherwise the suicide that the average person now commits would be much more rapid and apparent.

It is true that everything in nature is rhythmical, from the beat of the heart to the precession of the equinoxes, and that there is a certain sense of security and freedom from effort in following a régime more or less fixed. For the average individual there is a sort of alarm involved in any suggestion of change in his usual habits, and an assumption on his part that he cannot be happy in any other than his usual way of living. But if circumstances com-

pel it, such an individual often finds that he is not cast in a rigid mold but is plastic and can adjust himself to very radical changes. It is quite true that in elderly life, and especially in old age, radical changes must be undertaken very cautiously; yet I have seen this done, even in old age, with considerable benefit. Recognizing, however, that, as suggested, there is a certain rhythm in life and certain habits are sure to be established as a part of the regimen of each individual, why not ascertain as early as possible, first, whether or not the habits carry any menace to life and health, and second, whether or not they really contribute to one's comfort or satisfaction in living. In my own experience, for example, often when I have been asked to take a drink I have answered, and in all sincerity and candor, "I am at ease; I am *bien content*; I am interested in what is going on around me, and I am comfortable. Why disturb the situation by throwing a monkey-wrench like alcohol into the machinery?" This answer has usually been accepted as rational, even by convivial men. Perhaps in other situations, when one is not *bien content*, the suggestion to take a drink comes as a medical message, a prescription for a narcotic to "diminish the friction of living," as John Fiske expressed it, and to "bridge over the pitfalls which the complicated exigencies of modern life are constantly digging for us." But these "medicinal" emergencies and crises arise rather frequently in the days of the average man, so there is danger of the remedy proving worse than the disease, as is the case with all other pain-killing drugs. *En vérité*, life would be a simple and easy affair if it could be successfully met with a bottle of gin.

However, I do not intend in this discussion to charge into that dangerous jungle where prowl either the fierce

partisans of total abstinence or of alcoholic indulgence. I am inclined to think that there is more organic damage done through focal infection than through alcoholic poison, although, of course, focal infection does not, as a rule, directly lead to sex crimes, to murder, or to cruelty to women and children. There is no doubt, however, that microorganisms of various kinds kill their tens of thousands where alcohol kills its thousands.

JUDGMENT AND CAUTION NEEDED

Life is very complex. It is so difficult to live, and the attainment of satisfaction in living is so uncertain that dogmatic restriction, without consideration of all factors, even for certain types, is not to be looked upon as a desirable sociological objective. Life may mean so much more to a man under certain activities, that to eliminate them would so sterilize his existence as to defeat the end of real life extension. But here much judgment and caution are needed. For example, I have heard men say that if they had to give up smoking they would rather die—a pitiful confession of intellectual and spiritual barrenness. When one considers the long range of human satisfactions and enjoyments that exist, such absolute and complete dependence on a mere weed, that was not even in general use anywhere prior to the fourteenth century and would not be missed in a couple of generations by billions of happy people if it were exterminated, shows the extreme narrowness of view of such people.

I venture to say that if an individual were to establish the practice of eating a small bag of peanuts at two o'clock in the afternoon every day for a period of three weeks, he would become convinced at the end of that time that life was not worth living without his peanuts. If a reader should ask whether it would

make any difference if these peanuts were eaten at three o'clock instead of two, the answer is no. Or if one should start the practice of getting up at two o'clock every morning to eat a small bag of peanuts and were to keep it up for three or four weeks, at the end of that time he would feel that peanuts at that hour constituted an innate personal need and that life without this indulgence would be unendurable.

Anyone who doubts this statement may try the experiment. The point is that before we make up our minds that anything we do constantly, or periodically, or persistently, constitutes response to a deep-seated individual need, it is well to ascertain whether it may not be a compulsion neurosis, such as Dr. Samuel Johnson had which impelled him to touch every post he passed as he walked along the street.

I know a man who played expert tennis and had attained some eminence in the game. Sustaining a heart strain in a match, he was somewhat unwisely "laid on the shelf" for a year and not allowed any exercise at all. Later a careful test of his heart reserve showed that he could with safety indulge in moderate exercise and he was advised to take up golf as a substitute for tennis. He was greatly depressed at this suggestion at first, saying that he did not want to shift to an "old man's game." Following this advice, however, he ultimately became a golf enthusiast and practically forgot about tennis. Here was a man who thought he could not possibly be happy without tennis but who found an excellent substitute. The human animal is one of the most adjustable on earth. When one looks at the blind and the crippled who are oftentimes quite contented and happy with their lot, one is impressed with the absurdity of the idea that life is unlivable without some inconsequential thing like tobacco, or alcohol, or

buckwheat cakes and molasses, or mushrooms, or what not.

I am not denouncing tobacco or alcohol as necessarily outstanding factors in life destruction. Each man must decide for himself (within the law) what place these have in his life. I am mentioning them only as types of indulgence which sometimes do have a destructive effect, in an effort to illustrate certain principles. It may not be tobacco that is the most menacing to an individual, but rather a bad mental habit, mere gossip, bad temper, jealousy, fear, gluttony, asceticism, fasting, cursing, not cursing ("anger fretting inward," as Bacon expressed it). These general reflections are merely to give emphasis to the underlying principle of "early discovery, early recovery," to use the slogan of the National Tuberculosis Association, without being a health crank, a busybody, or a self-centered, introverted social nuisance.

RESTFUL SLEEP IMPORTANT

The worry, strain and complexity of modern life, lack of exercise and fresh air or faulty diet are often reflected in restless sleep. Forty-four per cent of the people who come to the Institute secure less than eight hours of sleep and 15 per cent give a history of restless sleep.

In the main, restless sleep is nothing more than a bad habit. It is a subject worthy of more earnest attention than is usually given to it. In some instances restless sleep is a symptom of some organic or functional disease, but as a rule it is due to bad hygiene.

To the perfectly healthy, well-adjusted individual, sleep is simply a matter of closing the eyes and readily losing consciousness; to lie down and be whisked off to shadowland.

There are people who tell you that they never dream. They are sincere in this belief; but dreamless sleep is

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only possible under chloroform or ether. The ideal sleep is not a dreamless sleep, however, but one in which there is an easy flow of pleasant dreams—a sleep that does not spell effort and fruitless struggle to do something or get somewhere against resistance.

As we consider the possible factors in causing disturbed sleep, we see that the sleep problem is almost as complex as the diet problem. Nevertheless, as in the case of the diet problem, some very simple measures and the observance of certain fundamental requirements will often solve it. When one essays to sleep, the whole organism is put to a certain test—a moral and physical test. Work well done, a day of honest toil with no evasion of duties, tends to promote a certain feeling of relaxation and content which predisposes to sleep. Unfinished work and excessive worry over it is often a serious disturbing element.

One great factor in restless sleep is digestive disturbance. Messages are conveyed from a badly functioning stomach or intestine to the brain and fitful sleep or distressing dreams result. A careful consideration of the dietetic habits is always important in this type of trouble. Always there should be an effort to have several hours' interval between dinner or supper and bedtime, and the meal should be a very moderate one. Tea, coffee and tobacco are drugs that may have a very disturbing effect. Slight chilliness can also readily produce restless sleep.

There is no such thing as a sleep-producing diet, except in the sense that the best diet for the individual is a sleep-producing one; and this can only be ascertained by careful physical examination and the consideration of the individual condition. Moderation in eating is always the best plan and that holds good for the late meal as well as for other meals.

There is another type of sleep trouble—the inability to go to sleep or the tendency to wake up and lie awake for hours. This has been called "insomnia" and is mistakenly regarded by some people as a disease. In such cases there should be a thorough search for any physical cause, and there are many possible physical causes. Failing the discovery of any physical reason, it may be assumed that the trouble is due to faulty living or to acquired bad mental habits.

The most common error is the fear of sleeplessness and the lack of confidence in one's sleeping ability. This begets a tendency to activity of mind after one retires, and a stream of thought is started which flows on and on. Persistent evasion of thought is the best prescription for sleep. Next, the complete confidence in one's ability to sleep which in all but a very limited number of cases is fully justified.

Certain simple preparations will increase one's confidence in sleep and also actually produce relaxation. A tepid bath, not over 98 degrees, lasting half an hour, followed by immediate retirement to bed, without chilling the body, is a very helpful measure. The reading of literature requiring concentration of thought an hour before retiring will create harmless fatigue and a certain inclination to its opposite, rest; but one should be careful about starting any problem-solving train of thought that may cause the mind to become alert.

It is remarkable what can be done to secure automatic and regular sleep by following a fixed habit of rapidly preparing for bed and plunging, as it were, into unconsciousness. This habit can be acquired and it is a wonderful safety-first rule for all classes of people. A well-ventilated room is an important requirement. Heavy bed clothing, especially over the chest, is to be

avoided; but the body, particularly the extremities, should be kept warm.

Probably many people do not give sufficient attention to the matter of comfortable bedding. It is true that in youth and health, especially after an active day, one can sleep almost anywhere and on anything, even a floor or a bench. But the civilized adult, with all his accumulated anxieties and worries and nervous reactions, may be in need of a little coaxing before sleep "slides into his soul." A good comfortable mattress may make the difference between success and failure in seeking to overcome a tendency to restless sleep.

Every drug that produces sleep is dangerous because it is a habit-forming drug. Some of these drugs are advertised by the manufacturers as harmless. No such drug is ever harmless. There may be emergencies in acute illness when a doctor is justified in prescribing such remedies. But one should distrust a physician who carelessly advises the taking of some drug for a little while until one can overcome sleeplessness. No drug should be taken except on the advice of a physician who gives careful consideration to the physical condition of the individual and withholds from him knowledge of the nature of the drug. Certainly no prescription of drugs is justified until there has been a thorough physical examination and a patient search for all the causes of restless sleep.

FOCAL INFECTION A SOURCE OF HUMAN MISERY

In a comprehensive and all-inclusive campaign against the factors that destroy human life and happiness no one-track road should be taken. We must throw out a far-flung battle line, as was done on the Western Front. In some aspects such a campaign calls for trench technique requiring cold courage

and fortitude and moral force; in some aspects it means open warfare. Always, however, there will be found weak spots in the line that must be strengthened, and sometimes there is need of a direct offensive—as when one goes to a hospital to have surgical attention given to tonsils or appendix or gall bladder.

I would not be understood as exaggerating the importance of focal infection. It is not at the root of *all* physical disability, but it is unquestionably at the root of a *great deal* of human misery and the removal of focal infection should be one of the elementary measures in a campaign for better health.

THE INFLUENCE OF WEIGHT ON VITALITY

It is interesting in discussing the factors that make for longer and more effective living, to consider actuarial studies made on middle-aged and elderly groups with a view to determining the influence of weight on vitality. In these studies it was apparent that while life insurance companies had been able to select a very favorable class of lightweight, they found it impossible, in spite of their care in selection, to secure a favorable type of heavyweight.

The problem of overweight warrants considerable discussion because of the manifold misunderstandings and misinterpretations that one finds in medical and health literature regarding it.

If a man ten or fifteen pounds overweight according to ideal standards were to ask a dozen physicians about his weight he would probably get a dozen different replies, opinions, or interpretations, which would range from assurance that his weight was absolutely all right to a mild caution not to gain any more. This is due to the fact that very few physicians give any at-

tention to the statistical aspect of this question.

In viewing this situation we must bear in mind that the tables of weight according to age and height reflect *usual* conditions and not the *best* conditions. This is shown in life insurance mortality studies which reveal the fact that after age 35 the best mortality is experienced among people who are a few pounds underweight, according to the tables. These massive statistics justify the thesis that after full maturity so-called average weight constitutes actually a moderate degree of overweight.

People who are impressive in their build, and are casually described as "robust," or "athletic," often have a great deal of confidence in themselves. As a matter of fact, it is in this overweight class that organic diseases are most rife, particularly diabetes, which is so often associated with obesity, and circulatory troubles of which high blood pressure is a symptom. It is discouraging that notwithstanding the use of insulin the death rate from diabetes the past few years has been increasing. This is probably due to increasing prosperity with its increasing indulgences, to lack of periodic health examinations and the early detection of any tendency to this trouble, and to failure in extending the benefits of insulin to diabetic sufferers generally.

Unfortunately, the enthusiasm for weight reduction that followed the war has been attended by a certain recession of opinion, especially among clinical physicians, as to the dangers involved in reducing weight. Irritated by the fantastic quack reduction remedies offered the public, many physicians have unwisely gone too far in reassuring people as to the harmlessness of overweight and in over-emphasizing the risks accompanying reduction. The fact that ill-advised methods

of weight reduction have done harm does not justify thoughtless attacks on so-called food faddists and hygienists who give sane counsel with regard to this problem. Certainly there are too many freak diets advocated and unquestionably many lives are shortened by ill-advised methods of exercise far too strenuous for overweight people in middle life. While properly adjusted exercise is important, the principle should always be borne in mind that under modern conditions the main reliance for weight reduction must be upon regulation of the diet. This will never fail in people free from organic trouble. As a matter of fact, recent experiments have shown that even in cases of endocrine gland disturbance, diet regulation will accomplish good results.

In discussion of this problem there has been too much pitter-patter about individual types. A person is overweight or he is not overweight. The type, of course, should be considered, as the broad lateral type is able to carry more body bulk than the lean linear type. No physician or hygienist with any knowledge on this subject should have difficulty in determining whether a man is overweight or underweight according to his build. The fat, self-indulgent individual is, unfortunately, always willing to be persuaded that his type is the fat one and that nothing can be done about it.

The modern standard of relative slenderness is a sound physiological ideal. For women it may be symbolized by the Venus de Milo who, far from being a mythological creature with a tendency to embonpoint, could be dressed in flappers' clothing today and look very well, although she does not perhaps exactly possess the so-called boyish form.

The caution to young people to err on the side of overweight rather than

underweight is sound, but as they approach age 30 it would be wise for them to take account of which way they are tending. If the tendency is toward gain in weight, it is better to institute preventive measures than to delay action and resort to corrective measures later on. When one is twenty or thirty pounds overweight it is often a weary task to get back to normal.

In the educational literature of the Life Extension Institute the principle is laid down that the average individual should seek to maintain the weight attained at age 30. Such age represents full development and there is no reason why it should not be maintained until age 70. As everybody knows, the average so-called healthy person tends to accumulate weight after age 30. In the past this has been interpreted as a physiological natural course of development, whereas it is actually a pathological development, as mortality records show. In this one field of weight adjustment lies a tremendous opportunity to lengthen the alleged fixed life cycle of man.

From the standpoint of physical poise, grace, convenience, utility—in fact, from every human standpoint—the relatively slender ideal is a sound one apart from its influence in lengthening the life cycle.

SERENITY AND COURAGE

To "keep serene," which is the last of the Institute's health commandments, is perhaps the one most difficult to observe continuously. It is just possible that there may be danger in over-emphasizing this rule. Undoubtedly a certain range of emotional activity is desirable in the maintenance of perfect mental and physical health. In fact, physiologists have claimed that for the proper functioning of the endocrine glands there should be stimulating factors connoting those associated with

more primitive existence, such as struggle and combat with other organisms.

Although wars come along periodically, the every-day existence of mankind is in the main peaceful and not accompanied by those elements of physical and mental struggle characteristic of earlier ages. The struggle is there but it is in a different field. It is conceivable that the attainment of a relatively perfect serenity might be accompanied by organic lethargy and apathy unless it arose from true philosophic power and adjustment.

The emotional waste that comes from bad temper, impatience, irritability, and unwarranted discouragement over minor human affairs is the real menace against which this rule regarding serenity is directed. There are many situations in life where it probably does one good to release his honest indignation in a militant aggressive effort to attain something worthwhile which involves an expenditure of emotion and mental tension. If these activities are not carried beyond the point of an individual's reserve, they probably favor the healthy functioning of the organism as a whole.

Fear, which is undoubtedly at the source of much emotional instability and failure, often causes people to take refuge from life struggle in some form of disability or disease, as was dramatically shown in the war experience in cases of shell-shock. Ordinary daily life struggle is not unlike military struggle in some respects, and often in civil life we find psychological states that might be described as life shock.

Worry has been defined as "a complete circle of inefficient thought whirling about a pivot of fear." Not only is worry a life-shortening factor, but it deforms life and excludes opportunity for normal healthy enjoyment. "Don't worry" is advice that usually

avails little. It is often more helpful to explain to victims of the worry habit the mechanism of worry and when they see its absurdity and its baselessness they will ultimately abandon it.

It seems a pity that in the preparation for life struggle on which millions of dollars are spent in our schools and colleges there is not better provision for equipping the youth of the land to meet life struggle more intelligently. The average youth who receives an academic or college education is often loaded down with a vast amount of parasitic culture which he carries as a load but which he does not find available as an instrument in the crises of existence. If the money and time spent on some of the embroidery of education were directed to instructing our youth in the mechanism of worry and in the tremendous value of real courage, I believe there would be vast dividends, not only in health but in achievement.

Courage is too often dwelt upon as a physical attribute. The quality we describe as animal courage is not without its value. But as every thinking man knows, a man with animal courage may be an absolute poltroon when it comes to facing a difficult situation in life that calls for moral courage. Crime, so rampant in this country, is not perpetrated by the courageous but by the cowardly—by people who seek a short-cut to something they are afraid to tackle in a manly decent way.

Serenity and courage may be acquired as habits of mind. In the education of our youth too much is taken for granted. It is assumed that people are born cowards or born heroes. As remarked elsewhere in this paper, we do not have to accept the behavioristic philosophy in toto to appreciate certain of its inherent verities. So, with regard to this rule for serenity, we may qualify it perhaps in this degree: "Keep

serene, but don't annoy people about it." A flash of temper once in a while may not be a bad thing, if there is good temper behind it. Exclude fear and worry and then try to take one's wounds in front. Such a philosophy offers a good foundation on which to build a longer, more powerful and satisfying existence. Certainly it will help to exclude much unhappiness.

CONSIDERATION OF ALL FACTORS ESSENTIAL

As has already been suggested, there is no one-track road to complete security in matters of health government and the extension of human life. A mother-in-law may be of more importance than a septic tooth as a factor of causation in ill health. A wicked partner may disorganize a man's health more than an infected gall bladder, and a wild wife or daughter may completely break a physically strong man. Even the elimination of a mother-in-law may not restore health if the septic tooth is allowed to remain. No amount of reassurance or mental relief will protect the heart against a streptococcus viridans, or remove a rectal fistula or an ulcer of the stomach.

When one considers what such an impairment as eye strain, for example, can do to a human life in the way of inducing functional troubles, one realizes the importance of complete consideration of the whole body and life of the individual. I have seen an underweight person gain fifteen pounds within a month after the fitting of proper glasses. This came about through the relief of headaches and nervous symptoms, inducing hope and confidence and a better outlook, and thus a better appetite for food and zest for activity and exercise.

I recall in this connection the case of a man 25 years of age whose periodic health examination disclosed the fact

that he was underweight, had recently lost eighteen pounds, that he was anemic and had no appetite. He was getting a divorce from his wife and his home was being broken up. The general physical examination disclosed nothing except the anemia and light-weight. The examining physician expressed the view that his trouble was psychic and was related to his domestic difficulties, but as a matter of rigid precaution he advised a complete gastro-intestinal X-ray. This special investigation disclosed a tumor of the stomach which was later diagnosed as cancer. Without such ultimate physical analysis, even the most expert clinician might have been misled in this instance because of the red herring drawn across the trail in the form of the domestic difficulty, and the fact that no pathological sign of cancer could possibly be elicited in this case through the ordinary physical examination. On the other hand, many people supposed to be suffering from heart affections and actually suffering from circulatory symptoms, such as irregular pulse, have acquired stable circulations and have been quieted down through the reassurance afforded by a complete examination revealing no signs of organic affection.

THE LIFE HISTORY

Among those seeking periodic health examinations many are found who resist the idea of furnishing so-called personal histories. "A good physician," they say, "should be able to find everything that is to be found—without asking questions. I am not here to tell the doctor what is the matter with me; that is what I want him to tell me." This is an almost unbelievably stupid, superficial and narrow-minded attitude and yet it is sometimes shown by people of superior intelligence.

As bearing on this question, I recently heard Dr. W. S. Thayer, retiring president of the American Medical Association and a clinician of the highest rank, say that in considering the ways in which his professional time was expended today as compared to thirty years ago he found that the chief difference lay in the time devoted to questioning people and to securing personal histories from them covering what they did from the time they got up in the morning until they retired at night. It was his belief that three-quarters of the time spent in his consultations was now occupied in this way. Certainly those who think that the modern way is purely mechanical and that periodic examinations are directed only to looking for septic tonsils, septic teeth, or other physical disabilities, have no true vision of the present day point of view of those most experienced in the consideration of human ills.

Commenting on the importance of studying the whole life of the individual and not confining attention simply to his body, Dean Winternitz¹² of the Yale Medical School recently made this statement:

There are today more hospital beds in this country occupied by the mentally disordered than by the physically ill, and the number of patients in institutions for mental diseases and feeble-mindedness is increasing. The suicide and homicide rate is tending upward. Divorce is increasing. Crime is rampant. Does this not show that the problems of human welfare are not being met effectively? Does it not mean that sociologists, economists, psychologists, psychiatrists, and physicians must work together if our physical health and our material wealth are to mean anything in terms of human happiness?

We believe that it does, and that is why we have organized, not a medical center, for concentrating experts to deal with physical illness on a large scale, but a Human Wel-

¹² *Eugenics*, April, 1929, p. 18.

fare Group, to take into consideration all the factors which influence human life and to find out what the relationship is between them.

NOT MERELY EXTENDING HUMAN
LIFE BUT EXTENDING ITS POWER
AND MEANING

To the worker in the field of life extension, one of the most irritating fallacies and platitudes (I might almost say bromides), and at the same time one of the most commonly held, is that there is no merit in merely extending human life unless we increase its power and meaning. That anyone having the imagination and initiative to engage in life extension work should be blind to such an axiomatic truth passes belief, yet this is commonly assumed by some writers.

Commenting on life extension activities among life insurance companies, an editorial in the *London Lancet*¹³ some time ago read in part as follows:

... The idea of an extra 10 years of enforced idleness after a busy and interesting life does not appeal to everyone, even if hobbies and other pleasant occupations can still be enjoyed, and on reading a booklet by a life insurance company dealing with the period of old age, the thought may arise that while insurance firms may have a certain interest in keeping us alive, there is something to be envied in those fortunate individuals who meet the "old man's friend," pneumonia. . . .

Well, well! So pneumonia is a friend in need and a friend indeed! Certainly there is a paucity of imagination in not visualizing a situation where a so-called old man or elderly man may be built up into a type that will not only resist pneumonia but the disabilities of later life and be able to function enjoyably and usefully without being a burden to himself or to those around him. This is the true,

broad conception and motivating thought of those who have any real influence and power in the life extension field. That superficial thinkers misinterpret this underlying motive is not, of course, the fault of those engaged in the work, because wherever the opportunity has offered, those speaking for the life extension group have emphasized, perhaps more strongly than anything else, the importance of adding to the power and meaning of life while seeking to prolong it.

At the very outset of the life extension campaign some fifteen years ago which culminated in the establishment of the Life Extension Institute, the following two paragraphs appeared in the introduction to the first edition of the book "How to Live":¹⁴

The purpose of the Life Extension Institute embraces the extension of human life, not only as to length, but also, if we may so express it, as to breadth and depth. The Institute endeavors to accomplish this purpose in many ways, but especially through the promotion of individual hygiene.

Thoroughly carried out, individual hygiene implies high ideals of health, strength, endurance, symmetry, and beauty; it enormously increases our capacity to work, to be happy and to be useful; it develops not only the body, but the mind and the heart; it ennobles the man as a whole.

It has frequently been pointed out by the life extension group that almost inevitably the factors that tend to prolong human life also serve to give it more power and meaning and capacity for enjoyment. These, I should think, would obviously appear to any thinking mind as reciprocals. It is only the force of custom and habit that impels the thought of a prolonged life connoting merely the addition of, say, 10 years of idleness, as the *Lancet* has

¹⁴ Fisher and Fisk. Funk & Wagnalls Company, New York.

¹³ *Old Age Must Come*, Jan. 30, 1926, p. 268.

postulated. To superficial thinkers who ascribe these incredibly stupid ideals to those engaged in life extension work, such workers no doubt appear as merely hysterically chasing "Father Time" and trying to hold on to his coat tails—or whatever garments he is supposed to wear—begging for just one more year of a miserable life.

ACTIVE, USEFUL OLD AGE

As we survey the prominent workers in the world's affairs we find many men past the age of 65 whose length of days may be looked upon as fortunate for them and for society. Their broad experience, their accumulated knowledge, their tolerance, charity, and understanding of human affairs, make available contributions by them which no youthful individual, however gifted, could offer.

I am not insensible to the appeal in the thought suggested by the *Lancet*, of a comparatively painless and abrupt termination of life before one becomes superannuated and a burden to himself or to others. Both these ideals were illustrated in the case of the late Mr. Haley Fiske, president of the Metropolitan Life Insurance Company, who died at the age of 77 apparently in robust health up to the time of his death. This splendid figure in the business world and the world of effort for human betterment, exemplified the text of an active, useful old age, and a death coming nearer to the ideal of natural death than any in my experience. Some slight difficulty in the circulation of the heart, and immediate and painless death came about at the end of an unusually long career of usefulness.

Earl Haig, the distinguished British war leader, is another example of a man of great moral and intellectual stature passing abruptly at a ripe age in the midst of his activities.

It is my belief that as constructive

health work progresses and men learn how to live and govern their activities, deaths of this type will be more common and at later ages—not after long periods of inactivity and idleness, but while men are still in the saddle; in other words, as the soldier would wish to die, with his boots on rather than propped up in a wheel chair.

ARE WE LIVING AN EQUIVALENT OF 400 YEARS?

Another suggestion that I regard as a fallacy is the statement one often hears that in this age life is so filled with a number of things that we are really living an equivalent of 400 years as compared to earlier ages. A critical survey of the things we are busy about in these days—the things we are thinking about and doing—will not, I venture to claim, show that our lives, measured by reasonable standards of manhood and womanhood, are of such a higher order that any such ratio exists.

I often wonder what Plato, Aristotle, Pythagoras, or, coming to later times, Spinoza, would do with our present body of human knowledge—what would they make of it? Turning from the leaders of thought of earlier times to the so-called common people of today, is life now so much fuller than in former times that we may consent to the thesis that no calendar extension of our present existence is needed? When we analyze the activities of the crowd, we see no diminution in the ideals of power and profit and paganism that prevailed in days gone by. Are we really living longer in an age that has practically abolished religion and put nothing in its place? Are our standards today more spiritual and less material than they were 100 years ago? Have we higher ideals with regard to literature and the drama and the art of conversation? Is the average man doing more thinking or less thinking, or

is he allowing most of his thinking to be done for him? Does the fact that he goes to the movies and sees and hears the whole world pass before him add to his individual power and understanding of the world he lives in? Is the quality of life to be measured by the speed of travel, the altitude of flight, or the depth that we dive in the ocean? Are we confusing the results of mechanical ingenuity with increase in moral, spiritual, and intellectual power?

I once heard President Wilson say that just because a man is moving all the time is no evidence that he is progressing toward a desirable goal. This caution I think should be held in mind in appraising life today.

I would not be understood as picking on modern life in a pessimistic, nagging spirit. Every age has its weaknesses, and perhaps the greatest weakness of this age lies in the multiplicity of invitations to release from boredom that have no true constructive value. They do not really lead to self-expression or to individual growth, but rather to vicarious experiences which have no growth-promoting qualities. When social integration depends chiefly upon Central African music and a game of cards, rather than upon intelligent human intercourse and exchange of ideas, we have a long way to go before we can claim that life is full and weighty as compared to former times. Until people seek the literary supplement before the comic page or the tabloid for their Sunday reading, there is some little distance yet to go before we can contrast ourselves approvingly with the grade of intelligence and human power that prevailed in the age of Pericles. How many people of average intelligence of the present day can read Plato and follow him?

Are we in fact approaching the millennium? Certainly we are living in many ways more comfortably, we have

more luxuries, we have excluded many sordid phases of living for the mass of people; but today, as of old, a man is a man for a' that, even though he does not own an automobile, has never flown in the air or dived in a submarine, has never even seen or heard a movie or traveled out of reach of perhaps half a dozen good books that have served to set him thinking and facilitated his understanding of his neighbors. When we consider that we have added little to the philosophies of old which were formulated by men having practically nothing but their brains to guide them—men who had no great universities behind them, no expensive laboratories or paraphernalia or instruments of research—I think we may gravely question the thesis that life is actually 400 years longer today than it was even in the days of Christ. Certainly we must arrive at some better standard of measuring life than we now appear to have, before we can make any such claim.

As I have pointed out, even the super-intelligentsia of the present day are closely approximating some of the philosophies of former times. The materialistic physicists of the nineteenth century had their feet apparently firmly planted on the granite rocks, but their successors find their feet planted on nothingness, on quanta which are not real but only formulae—not so different after all from the universal substance of Spinoza. In fact, at this moment I find the announcement of Einstein's new theory of the existence of a universal substance. According to press dispatches, he claims that there is only one substance, "the field," and only one universal physical law. In other words, it reduces to one formula the basic laws of relativistic mechanics and electricity. This is further evidence of the marriage of physics and philosophy, especially that

of the great Hebrew-Moorish monist, Spinoza.

In one respect we may, however, speak rather confidently with regard to an actually fuller human existence in this age as compared to others, and that applies to the lives of women. Unquestionably there has been a broadening and deepening of life for women. It is a little paradoxical, however, that women's lives by the calendar have been longer than men's lives; so that in the deepening and broadening of their lives there seems to be a special privilege. Starting with the advantage of a longer calendar existence, they now have a quantitative and qualitative gain in the substance of living. Some may question this because of the diversion of women's interests to commercial and scientific affairs rather than home-making and child-bearing, as well as the pernicious activities and the unwise use of liberty that a small quota of womankind claims. But this cannot alter the fact that woman's independence, her ability to maintain herself without the favors of man, and the opening of practically every career, even that of medicine, to her, afford a vivid contrast to the average life of woman in the earlier ages.

This is one of the complex problems of today. Whether, as these changes continue and become accentuated, we shall be able to assess women's lives as qualitatively and quantitatively augmented, is an open question. However, the differences in their problems as compared to those of men are not sufficiently marked to warrant even the remotest suggestion that they be excluded from the program of life extension so far as calendar years are concerned. It is up to them to fill those years as full as possible with worthwhile things. If they proceed to fill them with man's vices, however, there is little doubt about the result. They

will not only shorten their calendar years but what might be termed their "vital" years.

I am quite aware that one of the easiest things in the world and one of the cheapest, is to become a common scold. A real advance in social standards would mark the disappearance of the common scold from politics, literature, and especially from preventive medicine and public health education. If with the common scold we could eliminate the so-called constructive critic, a definite sociological burden would be lifted. An ordinary critic may be ill-tempered, ill-informed, illogical, impulsive, even mentally unstable; or he may be logical and well-informed and helpful. In either case he is just a critic, bandying words, man to man. The constructive critic, however, attacks one in an impregnable, armored tank. If one ventures to demur to his thesis, one is inevitably crushed, because the constructive critic knows he is right. There is no answer to him.

Hence I trust that any fault-finding that appears in this paper will not be regarded either as "constructive criticism" or common scolding but simply as an effort to disclose certain facts that are germane to the thesis and that must inevitably be included in such a discussion.

In all ages, all climes, and in all social groups of human beings, there have always been found social and sociological errors. I presume that even in colonies of red or white or black ants—organisms supposed to be extremely intelligent—there are customs that are harmful and that might be remedied. Perhaps there are ant philosophers and reformers who are busy on these problems. At least naturalists have told us that these ants to whom the sluggard is referred for inspiration designed to correct his mental and physical apathy,

are often extremely stupid in their customs and do a lot of unnecessary work that simpler methods would eliminate. In other words, these ant communities might benefit by having a personnel director or efficiency expert (dread word!) to consider their community ways. Hence the ease with which one may pick to pieces modern customs as compared to ancient.

It is no part of the writer's purpose to extol the "good old times." The passing of the old oaken bucket, the roller towel, and the common drinking cup, as well as artificial, super-saccharine literature and similar abuses, constitutes a real gain; but the coming of the tabloid, the racketeer, the psychotic literary bore, and the quantitative materialistic standards erected by society may well give us pause.

THE OLD MAN WITH THE HOUR-GLASS

Inevitably the thoughts of the elderly turn toward the limitations of life and of opportunity. As life goes on there is not that outlook upon boundless activity which is characteristic of youth. It is a pity that people who are able to keep in the game and enjoy it should have to carry such a burden. A good part of the burden is created by this sense of the relentlessness of time, this visualization of time as a ridiculous old man with an hour-glass and scythe, chasing us to the grave.

The celebrations of birthdays at middle life and later usually take the form of emphasizing the passing years. They inevitably enforce contrasts with earlier days and a consideration of the setting rather than the rising sun. I am confident that there are millions of people who would feel years younger if they did not know their actual ages.

"To grow old," says Huxley,¹⁵ "means to change internally in a par-

ticular way, not to have lived so many months or years; it is Life and not Time that brings Age."

I am convinced that when we dissipate the absurd, semi mystical concepts of the influence of time on human life, there will come about real practical benefit, not only in improving the mental outlook but actually in improving the physical state. The subconscious acceptance of the dictum that age in years brings its penalties and restrictions tends to the development of functional bodily disturbances, and functional bodily disturbances, if continued too long, may give rise to actual organic defects, especially in the cardiovascular system. There is probably no better equipment for long life than a sound heart and sound blood vessels—and these are not protected by the factors of worry, depression, and discouragement.

The true philosopher must adjust himself as best he can to the known fact that in the course of 60 or 70 years a sufficient number of things happen to the human body to pretty well impair its usefulness, its capacities and opportunities; but I think he is likely to view the matter in a somewhat different light if he discards the element of time and simply considers quantitatively the incident factors that actually damage organisms. If time were really the influential factor, absolute senility would be inevitable at a certain average age. As the real factors, however, are physical agents, there is at least a glimmer of hope that they may in part be met successfully and the period of senile futility postponed.

MEASURING LIFE IN "VITAL" YEARS

It seems a pity that in the consideration of these matters we cannot find a factor such as is used in physics, like the light year, which is employed as a unit in expressing remote distances of stars

¹⁵ Huxley, Julian, *Essays in Popular Science*. New York, Alfred A. Knopf.

and nebulae. Everyone knows that light travels 186,330 miles per second. The distance it travels in a year on this basis constitutes the so-called light year. If we could find a factor that would express the quality of life as distinguished from a calendar year and call it a "vital" year, that would simplify our problem and then we could say of a particular individual that he is so many "vital" years old. On this basis some men who are over 75 would be practically infants and others under 40 would be some hundreds of years old. Such a standard of measurement would include many factors, such as service to mankind, helpfulness, acquirement of human understanding and wisdom, and other attributes that tend to increase the moral, intellectual, and spiritual value of the individual.

Carrel, who has been at work on the problem, feels that a test for ageing is being evolved which will enable one in the laboratory to measure the progressive physical deterioration of the body. This has the merit of contrasting the true principle of ageing with the fallacious one of the influence of time. If we did indeed have a test that would record age, as expressed in the physical state of the body, this would be a very valuable indicator, in many instances, of the reaction to upbuilding measures, to regulation of hygiene and living habits, and other measures directed to arresting the ageing process. Such a test is not yet generally available in laboratories, but let us hope that it may become so for our further enlightenment.

The problem involved in finding a test for measuring the efficiency of the organism as a whole is a complicated one. The relationship between the vital capacity of the chest and the stem length was advanced by Dreyer some time ago as a measure of this kind, but it is obviously woefully inadequate for any such purpose. The

very fact that such test gave a favorable reaction in cases satisfactorily convalescing from tuberculosis condemns it as a real test of underlying physical efficiency in the sense that we mean. Certainly a man who is convalescing from tuberculosis is a very bad risk. Individually, with good luck, he may recover and live out a fair lifetime, but in the mass such lives have a lowered expectation.

I have never seen any success attained in producing an efficiency test of this kind, because such tests leave out the latent foci of various kinds that are actual liabilities on the life, even though they have as yet not affected the functions of the body in such a way as to impair its working capacity.

The death rate and the disability rate are determined not alone by the total of varied tissue changes coming about very gradually and insidiously, but oftentimes by some localized physical defect such as a septic tooth or a focus of infection in the tonsils. Such a focus of infection may remain quiescent for years, and then suddenly strike through to a vital organ. Through such influence a certain area of the arterial tree may be affected, and if this happens to involve a vital organ, such as the heart or kidney or brain, there is a very definite health liability carried by such an individual even though the balance of the body is in a state of apparent perfect health. So complicated is the human mechanism that these defects may arise in various parts of it and, as I have said, constitute liabilities, while the machine as a whole appears to be working smoothly and successfully.

A focus of this kind, it might be said, is lying dormant, awaiting some excitation to be released, as a submarine might be released to attack a battleship. Let some unusual strain be applied, such as an acute illness, and the

weak spot is revealed. A person with such a focus of infection in his body is no better as a life insurance risk than the danger that hangs over him. There is a certain ratio of probability that an explosion will occur. In his class the mortality will be heavy and the expectation of life will be reduced.

In the rating of individuals either for life insurance or for employment, there often arise amusing instances of popular misunderstandings of these underlying problems. A man who is physically well-proportioned and obviously vigorous may be rated low either as a life insurance or an industrial risk, while a slip of a girl will be rated high. In the first instance, the man may have some focus of trouble that has not as yet impaired the working power of his body but which nevertheless hangs over him as a menace, while in the second instance the girl, although relatively feeble as to muscular power and bodily structure, is free from any focus of a menacing kind.

In using the word "focus" I do not mean to imply solely focal infection, but rather a "spot" of trouble—a localized pathological condition which is quiescent. The detection of these foci and the clearing up of such areas as are likely to become active and affect the whole organism is a fundamental procedure in a life extension program. That a vast amount of good can be accomplished along these lines is shown by the records of people taking periodic health examinations and cooperating in the effort to raise themselves to higher standards of health. The results of studies made among large groups of people coming under such an influence have been commented upon elsewhere in this paper.

The purport of this discussion should not be misunderstood. Every man with a septic tooth does not come to grief. Some are lucky. They carry

such liabilities for many years, just as a man may work in a dynamite factory, taking little precaution, without ever coming to disaster; just as a window cleaner may discard his safety belt and yet escape injury; just as a structural iron-worker, accustomed to his work, may become very confident, taking many hazards, and escape. Nevertheless, the risk on such people is heavy, as is well recognized in life insurance where such hazards are assumed and charged for.

Life is, in fact, very much like the gentle Indian pastime of running the gauntlet. Sometimes a man passes swiftly between the files and escapes fatal injury, until near the end. Others receive a tomahawk or other missile when half way down the line. From the moment a man is born he is assailed by various menacing factors in his environment. He accumulates the scars of these contacts. Sometimes they are in non-vital places; at other times scars are formed where they do the most harm and the life is shortened. It is the duty of science to determine the source from which the assailing missiles come, and the defensive armor that may be employed against it, as well as the actual elimination of the source.

STATIC MINDS

At the beginning of this article I referred to the vital necessity of freeing our minds in order to work more flexibly in the field of human betterment. This is all-important.

The scientific man who contends that the human life cycle is fixed, or practically so, and that any considerable extension is impossible, implicitly claims to know everything. He not only knows all the past but he knows all the future. He is a veritable seer and can project his intelligence five hundred years in advance of our time. He can assure us that science will not

at that time, perhaps never, have sufficient knowledge of the control of the endocrine gland system, for example, to exert any measurable influence over human characteristics, even now known to be linked up with glandular states of various kinds. He is able to assure us that the eradication of infection from the human body, and its protection from parasites and menacing organisms, its upbuilding through higher knowledge of nutrition and of personal hygiene, can never be developed to a degree that will be reflected in marked longevity and increased power.

Facing the marvels of the present age, which are, it is true, mostly reflections of mechanical ingenuity rather than of improved intellectual power, it is indeed a bold man who places a definite limit to scientific advance. Even at the present time, although merely nibbling at these problems, we have dissolved much error, we are able to see much more deeply into the secrets of nature, and we have a basis of experience that justifies a reasonable hope of continued scientific progress and enlightenment.

In this connection I am reminded of an editorial which appeared many years ago in one of the great New York dailies at the time Professor Langley was conducting his somewhat disappointing flying experiments. The editorial was substantially to the effect that it was about time "the Smithsonian Institution ceased to make that great scientific center ridiculous through the futile experiments of Professor Langley."

I am also reminded of a most interesting and amusing experience recounted to me by Mr. Byron Newton who, if I recall correctly, was correspondent for the *New York Herald* at the time of the Wright brothers' first experiments with their heavier than air

machines. He was sent down to the field where they were working, to "expose the fake"—as they put it. In order to observe the activities on the field, he concealed himself in the bushes with a companion waiting for the "fakers" to appear so that he could "show them up"—when suddenly he heard far overhead the whir of a flying machine! He then realized that there was something far more important to report than exposure of a fraud.

In the early days of automobile development a very serious article supported by formulae, drawings, and all the panoply of engineering skill and knowledge appeared in *Popular Science Monthly*, the gist of which was that the automobile could never be developed to a point of becoming a road vehicle for common use but would always be more or less of a curiosity or toy. If Grover Whalen read this article when he was a boy, and if he remembers it at the present time, he must chortle over the practical confutation of the author's thesis as presented in the streets of New York today!

I can recall, when I was a student, asking my physics teacher what he thought about one of Jules Verne's novels. I think it was *Twenty Thousand Leagues Under the Sea*. He said, "Don't read such nonsense; that isn't science and never will be."

Lister was ostracized by the medical profession of London for ten years after he made a complete demonstration of the value of antiseptic surgery in Scotland.

We all know the terrible battle that Pasteur had in the Paris Academy of Medicine.

And so we could multiply the instances of static minds resisting not only concrete evidence but a reasonable and flexible use of the scientific imagination for which such a fanatic for veracity as Huxley contended.

Of course, I realize that, on the other hand, many attempts to lengthen human life have been bound up with charlatanry, with fantastic theories and ideas and cults of a pseudo-scientific type which not only have excited illusive hope in human hearts, but which have tended to make the sober, practical scientist close up like a sensitive plant when the extension of human life is brought up for discussion.

This is part of the superstitious aura that still surrounds human life and obscures its real meaning. Scientific men who keep their feet firmly on the ground in all other branches of science, often become as children when they approach the problem of their own bodies and the laws that govern them. The human life and body is, at least subconsciously, supposed by many to be outside the range of general science. There is something mysterious about it that places it under a special category and confuses the mind that is groping toward a solution of its problems.

It is, of course, entirely proper for scientific men, especially medical men, to use restraint in holding out to the public the promise of amelioration of the many physical states that handicap mankind. This, however, is a far different matter from assuming to fix a definite limit to human knowledge in the future and refusing to seriously consider the problem of life extension when such abundant evidence is available indicative of the possibility of extending human life.

SOCIAL ADJUSTMENTS

The very fact that such questions as these arise in discussions of this subject is fair evidence of the present backward state of science in its attack on the problem of life lengthening. Tradition and dogma are smugly accepted as placing limitations on human effort. A broad, systematic analytical ap-

proach to the problem has not yet been fully developed.

There are even some who deprecate any such effort, their contention being that life is long enough and bad enough, and that any attempt to lengthen it is not only anti-social but cruel. "Why lengthen our days of suffering?" we are asked. I have already referred to Sophocles' view that "not to be born is best, and next, to die as soon as possible." This thread, or rather rope, of pessimism runs through the discussions of most ancient philosophers, who looked upon life as an enigmatic affliction rather than a divine dispensation. Here and there we find an optimist, but he is always under suspicion of being mentally unsound. I am not speaking now of average individuals, but of the men who stand out in their particular ages as the greatest thinkers.

Very little analysis of human affairs is needed to reveal the fact that most human unhappiness arises from physical causes. Illness of some kind is usually the starting point. It may be mental illness, it is true, but none the less it is illness and therefore it is in some degree preventable or remediable.

In this article I am not particularly concerned about the sociological reflexes arising from any great prolongation of human life, but rather with the clear thesis of the possible prolongation of human life beyond the historical limit. Let us first settle the question as to whether such a thing is within the range of possibility before we begin to worry about the hypothetical unfortunate results. As to these results, the human imagination may turn loose and, after the manner of Jules Verne, picture various types of social states created by a vast prolongation of human life.

Society would undoubtedly readily adjust itself to a moderate extension of

human life, that is, a definite and substantial increase in the able-bodied survivors above age 75—though we should not pin our faith to any particular mathematical figure. There would be more fixation of control in large enterprises headed by elderly men. Probably the extension of birth control would take care of any excess population and meet the problem of overcrowding.

It seems to me highly probable that if there is to come about at some future time a profound change in the life cycle, carrying it beyond 100 years, for example, this will occur through some specific means. The postulate of Loeb that senility actually arises through the loss of some hormone that is required to stabilize the tissues in a state of health, or through the accumulation of some poison that is not successfully excreted by the body, or both, merits considerable thought. It may be that specific factors of this kind are latent and that the discovery of such factors will assist us in prolonging human life, just as the discovery of insulin has given us a weapon with which to fight so serious a trouble as diabetes, or as the discovery of the potency of liver fractions has put a weapon into our hands to fight what was as incurable and resistless a body change as old age, namely, pernicious anemia. The gradual breakdown of the body in later life is probably not different in principle from the course of pernicious anemia. In both cases we have a tissue change relentlessly proceeding to death. In one case we have found a means of checking this tissue change and of re-establishing the equilibrium of the blood. The scientific problems involved in discovering a means of checking the tissue changes that exhibit themselves in the characteristics of elderly life and old age, lie in the same domain of pathological science.

It is not so long ago that many devastating diseases were accepted as acts of God, or acts of nature—as something that must come periodically and sweep through a community carrying off a certain number of lives. Is it not possible that in the centuries to come, premature death may be relegated to the limbo where former plagues have gone? I am quite aware that this is speculative in large degree, but there is a solid basis of experiential data underlying it.

Before this happens, however, improvements in personal hygiene and ways of living will doubtless gradually bring an extension to which society will slowly adjust itself. It is not at all probable that we shall be suddenly confronted by a situation where a large mass of the population will have an added twenty years of existence thrust upon them.

If the time ever comes when a specific method of lengthening life is generally available, there will indeed arise a serious social situation, but that will have to be met as society has always met the crises brought about by radical changes in types of civilization. Such crises are not unheard of. For instance, the present traffic crisis in New York City is typical of a situation that would have been regarded as incredible twenty-five years ago. Overhead traffic ways are now being discussed as an absolute necessity. Possibly, as aviation advances, problems will arise concerning air navigation that must be met by some kind of regulation beyond anything now contemplated. The possibilities in the chemical field are enormous, both constructive and destructive. Man is beginning to play with dangerous toys and society at large will from time to time be confronted by responsibilities of control.

Radical changes, not always justly called improvements, in the ways of

men, bring their penalties as well as their advantages. The movies, the automobile, and the radio are not unmixed blessings. They have their destructive as well as constructive aspects.

The problem, for example, of what to do with a worthless life that seeks extension has not yet become acute, but many individual instances of this nature have arisen in the experience of doctors. Physicians have from time to time raised the question, "Under what obligation am I to extend the life of a wife-beater? Should I exert my full power and skill to see him through a case of pneumonia or typhoid fever?" Obviously, no high-minded physician ever hesitates as to his course when faced by a life in danger. He does his best to save it, and it is up to society thereafter to protect itself if the life is a dangerous or sinister one. With widely available means of definitely prolonging life, a situation may arise where some sort of jury must decide as to whether a man is entitled to enjoy such benefits. Are we to have no protection from literary scolds, scavengers, and fishwives, as well as gold-brick men, touts, nagging wives (*méchant nagging*, not health nagging), golf fiends, politicians, gunmen, dumbbell and maladroit husbands, night club hostesses, bootleggers, boot lickers, *et al.*? May it not be that specific life-lengthening methods would come under the same control as narcotic drugs? The social menace is a similar one. The use of narcotics often turns a man into a criminal or at least into a social liability. The use of life-lengthening methods in the case of a criminal or a social liability simply perpetuates such menace.

However, we must keep in mind that these improvements in personal hygiene that have been postulated, and also any specific life-lengthening meth-

ods that may be discovered, will increase the power and solidify the control of the more competent and conservative groups in the population who will perhaps more swiftly and fully avail themselves of such facilities than the lower-grade groups.

Man must pay some price for his advancement, and that price very often is struggle with social problems with which he must hope, in the course of time, to deal successfully. I can see no merit in holding back from lengthening the health cycle, the work cycle, and the life cycle of man because of the reciprocal dangers of the distant future. If science can work such a wonder as the extension of the human life span beyond 100 years, its resources may well be expected to meet successfully any sociological problems following in the wake of such an achievement.

One aspect of this question that always suggests itself to me is the possible development of a more optimistic philosophy than has been held in the past by the leaders of human thought. It is indeed a remarkable thing that among our most profound thinkers the pessimistic view of life is the rule rather than the exception. They tell us over and over again that human life is destined to be one of sorrow and tribulation. They ask us to accept the inevitability of human unhappiness. They feel that the psychic state of mankind is comparable to his physical state.

Unquestionably man faces ultimate unhappiness and grief and bereavement in most instances; but when we analyze the situation, probably sixty per cent of the unhappiness in life is, as I have said, related to illness. Certainly a vast amount of it is related to premature death. As science deals more successfully with the physical ailments of mankind and includes in these efforts a more intelligent and adequate method of dealing with the

psychic ailments, may we not look forward to a period when a more cheerful philosophy will be justified and we may say to our young people who are just entering the world of affairs, "You may look forward to a fairly happy and contented existence if you will make reasonable use of the knowledge available and learn how to live?"

Certainly no one would wish to live in a world where everything was rosy throughout every day of every year of life. It is quite probable that people should more frequently set up the ideal of *satisfaction* in living rather than of some sentimental state of so-called *happiness*. As people learn more completely how to attain what is covered under the hackneyed but nevertheless significant term, "self-expression," we shall be less nagged by the pessimistic philosophers of old as well as by all the sad young men of modern times who are trying to prove that man's natural destiny is to live as short a time as possible—in a human pigsty. After all, there are some gardens in the world as well as pigsties, and a garden is just as real a place in which to live as is a pigsty. Another hope for the future is that as good health becomes more universal, as people are gladder just to be alive, the vogue of these psychopathic writers will pass and, having nothing to feed upon, haply they will disappear.

These, however, are not predictions. Indeed, nothing that I have written here should be looked upon as prophecy but rather as discussion of possibilities within the range of human science. I recognize other possible consequences, such as complete degeneration of the human race, the disintegration of our civilization and perhaps the erection of another type of civilization on its ruins. Certainly such undesirable results are quite likely to occur if the leaders in science assume a static and non-receptive attitude toward those who are

working constructively to increase the power and capacity of men to live and enjoy life in the broadest sense of the term.

SUMMARY

The author's conclusions summarizing the data and evidence presented in this article may be expressed as follows:

1. Mankind is in the infancy of the race.
2. Man has not "fallen" from a high estate.
3. Man is a plastic organism molded and to be molded by billions of factors in his heredity and environment.
4. The germ plasm is not inviolate. Science has in small degree exerted power over it and may yet do so in larger degree.
5. The life cycle of man has not been directly "fixed" by nature, by the Deity, or by any other personified arbitrary agency. The life cycle is controlled by evolution, not by edict.
6. Age is not a function of time but is a physical state.
7. Time has no influence whatsoever over the human organism.
8. There is no such thing as a "natural" normal life cycle. There could not be except in a world of changeless environment or by direct supernatural interference.
9. No one knows the possible limitations of life extension because no one knows the possible extension of human knowledge and human power.
10. The life cycle that would be dependent upon natural evolution does not connote that of man because man may nullify or augment the effects of natural evolution.
11. The human life cycle has been changed by human society and by human science. Hence the thesis of a fixed life cycle is a Spencerian tragedy, *i.e.*, a deduction killed by a fact.
12. No reasonably intelligent or well-informed person in the life extension field has any ideal other than that of improving the quality of human

life and increasing the capacity for achievement and satisfaction in living. The mere extension of life is regarded by them as a by-product.

13. To attain these ends, there are three main lines of effort:

(a) Establishment of constructive ways of living, working, and playing.

(b) Correction of physical defects as early as possible, as revealed by periodic health examinations; and counsel as to living regimen based on full knowledge of the individual's needs.

(c) The discovery and use of hormones or chemical substances that

will afford a specific means of maintaining the tissues in a state of health.

These lines of effort, in varying degrees of development and power, must be relied upon to meet the causes of disease, old age, and death categorically listed.

14. Life can never be wholly freed from suffering, agony, and death, but all this may be experienced on a higher and less sordid plane. A relatively optimistic philosophy is justified by scientific truth. Man has himself to blame for most of his misery.

Book Department

MADARIAGA, SALVADOR DE. *Disarmament*. Pp. 364. Price, \$5.00. New York: Coward-McCann.

This work appears at a most opportune moment, when the attention of the nations of the world is directed to the intricate problems involved in disarmament. Drawing upon his long and valuable experience as chief of the Disarmament Section of the League of Nations, the author approaches the whole subject from the broad standpoint of a philosopher. In no other work has so broad and comprehensive a treatment of the question been made, and nowhere else can one find so profound and searching an analysis of the forces favorable and unfavorable to disarmament. The book is one which deserves the attention of every one interested in the peace of the world. In preparing this work, the author has done a real service to humanity.

The keynote of the book is the institutionalization of peace through international coöperation and organization. The author sees clearly that peace does not merely mean the absence of conflict, but that, in a much larger sense, it signifies a constant, unremitting, constructive effort to eliminate the causes that make for war, and to place restraints on lawless governments or nations that attempt to violate the established international standards.

Dr. Madariaga points out with much eloquence the opportunity for leadership presented to the United States, but, at the same time, he realizes that in order that this opportunity may be utilized it will be necessary that national opinion undergo a number of far-reaching changes, notably: a change of attitude toward the League of Nations and toward the Monroe Doctrine. He makes a strong plea for the League definitely to face the larger responsibilities that have been placed upon it. The author's presentation of the larger opportunities presented to the League constitutes the most eloquent, as well as the most suggestive portion of the book.

L. S. ROWE.

JONES, THOMAS JESSE. *Essentials of Civilization*. Pp. xxvii, 267. New York: Henry Holt and Company, 1929.

Occasionally we find one active in the affairs of the world turning from his vocation to crystallize his experience in writing. Often we feel an ineptitude in the generalizing, an amateurishness in the composing.

The author of *Essentials of Civilization* has been a very busy man, one of the "doers," yet in his present volume he has shown himself to be one of the thinkers as well, and a master of composition in the bargain.

Drawing from his wealth of personal experience in the North and South of the United States, in Europe, in the centers of the ancient civilizations and in uncivilized Africa, he generalizes four essentials of civilized society: (1) health and sanitation, (2) appreciation of environment, material and human, (3) the effective transfer of the social heritage from one generation to another, and (4) re-creation—physical, mental and spiritual.

"But society functions through organizations—governmental, economic, educational, religious, philanthropic and art." Various chapters of the book review the operations of these several organizations in achieving the four essentials, analyzing them in the light of the degree to which they have been successful. Finally, the author discusses the means of estimating the unity of civilization and the requisites for its advancement.

Dr. Thomas Jesse Jones has achieved a stimulating and constructive volume of real value to other social thinkers and doers.

FRANK ALEXANDER ROSS.

ZORBAUGH, HARVEY WARREN. *Gold Coast and Slum, A Sociological Study of Chicago's Near North Side*. Pp. xii, 287. Price, \$3.00. Chicago: University of Chicago Press, 1929.

Those familiar with the monographs which have appeared in the University of Chicago Sociological Series or with Park

and Burgess famous textbook, *An Introduction to the Science of Sociology*, will not find much that is new in the way of theoretical background in the volume now under review. The basic concepts of human ecology are relatively simple, and once grasped have a way of coloring one's thinking to a surprising extent; Mr. Zorbaugh has been no exception to this rule.

The value of this book seems to lie in the fact that it is a triumphant demonstration of the fruitfulness of a method which has already been applied in the most divergent fields of urban sociology—the method known as human ecology. By plotting on a map the location of individuals having certain characteristics in common, and by then noting the position they occupy with relation to other groups, and finally, by making detailed case studies of such individuals, a surprising amount of highly relevant sociological information can be extracted from a relatively small natural area or group of such areas.

Even for those who are not at all interested in such "dry" and "impractical" subjects as sociological methodology and theory, however, this book should have an appeal. Why read the Greene, the Canary, the Beige or Taupe Murder Cases when such a fascinating account of life in Chicago's Greenwich Village, Little Sicily and Park Avenue lies ready to hand—fact that is stranger than fiction? Read about Towertown, Cap'n Streeter, Al Capone, the "charity girl," the *nouveaux riches* of the Edgewater Beach, the whole gamut of social status or the lack of it. A good yarn, as colorful as the story of the siege of Rothenburg or the struggle of the Spartans with their Helots.

Indeed, so richly colored is the material of which the book is composed that the abstract beauty of line is lacking. Concepts are not clear, or at least do not stand out clearly enough, although they may be implicit. The author seems to have had little taste or ability for systematic treatment; he is a colorist rather than a draftsman. These are minor criticisms; Mr. Zorbaugh's approach is good, his style readable, his material splendid. The monograph is a credit to the series.

HOWARD P. BECKER.

DENNY, HAROLD NORMAN. *Dollars for Bullets. The Story of American Rule in Nicaragua*. Pp. x, 411. Price, \$4.00. New York: Lincoln MacVeagh, The Dial Press, 1929.

Ex-President Taft's diplomatic policy of substituting dollars for bullets has provided Mr. Denny with a title for his book. As a staff correspondent of *The New York Times* the author spent six months, the winter and spring of 1927-1928, in Nicaragua. In order to complete his study, he resigned from *The Times*; he accepts entirely the responsibility for all statements made in the book.

Mr. Denny neither wholly approves nor disapproves the policy of America toward her smaller sister republic. He is willing to admit that the government of the United States has made Nicaragua "its satellite, while it loudly and piously declared its determination that all Latin American countries should enjoy complete freedom." He rather doubts the charge that this domination has been exercised that American business interests might prosper, although the reviewer can hardly see that Mr. Denny has offered any other explanation. He denies emphatically, however, that America's attitude has been dictated by Wall Street, that Nicaragua is held helpless by marines while it is financially exploited by predatory interests.

The author presents the story of the republic's troubled politics in straightforward narrative; many chapters read like romance. He pictures for us graphically the outstanding politicians, generals, and presidents of the country: Zelaya, Mena, Moncada, Estrada, Chamorro, Diaz, and Sandino. The latter he regards as a sincere and purposeful figure. He is no less convinced of President Adolfo Diaz' genuine desire to help his country by welcoming America's intervention. Mr. Denny believes that he might have succeeded had he not had "to cope with intense opposition from the Liberals, jealousy and treachery within his own government, and eventually with a formidable revolution which would have brought about his downfall except for the marines."

Whatever the reader's personal attitude toward American meddling in Nicaraguan

affairs, he cannot fail to see and appreciate Mr. Denny's attempted impartiality.

DOUGLAS L. HUNT.

CONDLIFFE, J. B. *Problems of the Pacific*. Proceedings of the Second Conference of the Institute of Pacific Relations, Honolulu, Hawaii, July 15-20, 1927. Pp. xiv, 630. Price, \$3.00. Chicago: University of Chicago Press, 1928.

Some years ago a group of business and professional men in Hawaii initiated a movement which led to the establishment of the Institute of Pacific Relations. They were animated by a feeling of international good-will, quite natural in a territory which so to speak lies at one of the important cross-roads of the world, and for that very reason has become the home of men of many races, nations and creeds.

In 1925 the institute met in its first conference, attended by people from eight of the countries of the Pacific rim. A permanent Institute was formed, with branches in different countries and a program was drawn up for future work to be reported upon and discussed at the second conference. This conference was attended by official delegates and unofficial observers from ten countries and the League of Nations. The round-table discussions dealt with subjects such as tariff autonomy, extra-territoriality, and foreign concessions and settlements in China; foreign missions and pacific relations; population problems in relation to food supply, migrations, etc.; diplomatic relations; mandates; and the future of the Institute. In addition there were formal addresses giving the outlook on Pacific affairs of each of the Institute national groups.

The voluminous Proceedings contain, in addition to the material referred to, some thirty documents, which served as the basis for the round-table discussions, and several maps, diagrams, etc.

THORSTEN SELLIN.

REDLICH, MARCELLYS DONALD. *International Law as a Substitute for Diplomacy*. Pp. xi, 208. Price, \$3.00. Chicago: Independent Publishing Company, 1928.

The title and preface of this book suggest that the author intended to develop the

thesis "that peaceful settlement of international disputes can only be secured to the extent that both soldier and diplomat yield place to the international lawyer." But the problems which this thesis raises are never, except incidentally, touched upon throughout the book. Such problems as the settlement of political disputes, the adequacy of international law to solve all disputes, and the more rapid development of international law are not once mentioned. The great advances made in recent years in conciliation and conference are completely ignored. There is no coming to grips with any aspect of the problem. What one actually finds in the book is little more than a very short history of international relations and diplomacy and a brief account of the evolution of the status of diplomatic and consular offices.

AMRY VANDENBOSCH.

MACLEOD, WILLIAM CHRISTIE. *The American Indian Frontier*. Pp. xxiii, 598. New York: Alfred A. Knopf, 1928.

An account of the American frontier which analyzes the effects of European people and civilization on the native inhabitants of this continent is a natural development of the recent emphasis on social rather than political history. Doctor MacLeod is not a sentimentalist. He tells a straightforward story which begins with the theories of origin and social organization of the Indians, continues through the American discoveries, settlements and economic activities of Europeans, not neglecting population movements, wars and religious changes, and ends with a brief description of the Indian in the United States today. There were times when the reviewer had difficulty in remembering that he was not reading a new handbook of the American Indian. Nevertheless, the material is entertaining as well as thought-provoking throughout and is admirably welded by constant attention to the rôle of "big business" on the frontier. The anthropologist may be startled by some of Doctor MacLeod's theories, such as those growing out of his comparison of the policies of Latin and Anglo-Saxon settlers, but the fresh point of view and analytical ability which he brings to his work easily

stone for a lack of orthodoxy in interpretation.

There are about twenty pages of appendices and thirty of bibliography, all in fine print.

DONALD YOUNG.

RALSTON, JACKSON H. *International Arbitration from Athens to Locarno*. Pp. xvi, 420. Price, \$5.00. Stanford University Press, 1929.

Numerous treatises have appeared at irregular intervals dealing with detached segments of the subject of international arbitration. Reports galore have been written on particular arbitrations. Articles and books without end have covered the theory and history of the subject. Many have described the workings of the Permanent Court of Arbitration, the Permanent Court of International Justice, the Bryan Treaties, the League of Nations, etc., but no one work has appeared thus far which does full justice to the growing subject of international arbitration. The present study is no exception, although the reviewer feels that it excels all other works on this general subject, especially that of M. Politis.

The errors of Mr. Ralston are both those of commission and omission. In the first place, he devotes a fourth of the work to the theories and principles which underlie international judicial settlements, when virtually all of the material presented has appeared in his previous work on the "Law and Procedure of International Tribunals." In the second place, his four short chapters on the "Influences Working towards Judicial Settlement" are not a discussion of influences or factors. Rather they are a cursory examination of (1) the ideals of international tribunals as developed by the writers from Dante to Jay, (2) legislative expressions on the same subject, (3) the efforts of the peace societies in the United States and other parts of the world working for arbitration, and (4) the progress recorded in the Pan-American Conferences. The author might well have included at this point a discussion of the influences or factors—economic, cultural, political, historical, etc.—which make for progress in this field, in addition to a study of the

forces which retard this form of international coöperation. In the third place, the author devotes the latter part of the volume—approximately a fourth—to the Permanent Court of International Justice. The material covered is virtually a recultivation of ground more ably tilled by Dr. Hudson and Judge Bustamante. The reviewer questions whether the World Court may, strictly speaking, be regarded as an arbitral tribunal. Certainly as regards the advisory function,—to which the author devotes two chapters,—the court cannot be looked upon as acting in an arbitral capacity. In the fourth place, the author includes the Hague Convention for the Pacific Settlement of International Disputes and the Statute of the Permanent Court of International Justice in an appendix, but omits altogether the proposed arbitration conventions submitted to the Assembly of the League in September, 1928. These conventions may prove to be of even more importance than the Hague Convention. Also, the writer soft-pedals the arbitral function of the League of Nations. In the fifth place, the discussion of the Locarno Pacts is inadequate. They are not accorded separate treatment. In fact, they are referred to only four times, and then only for purposes of illustration. The potential content of these is unknown: in view of contemporary international developments they may prove to be of vast import.

The material is well arranged and ably presented.

JOHN G. HERVEY.

GEE, WILSON. R. E. Park (Sociology); A. A. Young (Economics); C. Wissler (Anthropology); R. E. Chaddock (Statistics); R. S. Woodworth (Psychology); R. Pound (Jurisprudence); A. M. Schlesinger (History); J. Dewey (Philosophy); C. A. Beard (Political Science). *Research in the Social Sciences. Its Fundamental Methods and Objectives*. Pp. 305. New York: The Macmillan Company, 1929.

This book consists of nine lectures delivered before the Institute for Research in the Social Sciences at the University of Virginia. The subject matter is devoted chiefly to a statement of some of the prob-

lems which are in the foreground of interest in each of the fields covered. General approaches and theoretical considerations rather than matters of detailed methodology are emphasized, as is necessary in view of the brief space allowed for each essay. The centering of the contributions on the special subject of research gives a unity to this volume which tends to be absent in symposiums of the social sciences, especially when defined as broadly as in the present case. The book will be valuable in helping to acquaint workers in each subject with the interests, problems, and methods in related fields. This may in turn stimulate a better mutual understanding and possibly coöperative research. The selection of authorities is excellent.

GEORGE A. LUNDBERG.

ABEL, THEODORE. *Systematic Sociology in Germany*. Pp. 169. Price, \$3.00. New York: Columbia University Press, 1929.

When leafing through the pages of American books dealing with sociology, social theory, and related subjects, one frequently meets with the well-worn names of Gumpowicz, Ratzenhofer, Schmoller, *et al.* So far so good. But then the film breaks, and we are left in deep darkness; little seems to be known about those writers who flash on the screen from 1910 onward.

Even the monographs, which might be expected to be more up-to-date, are in no better case. For example, take Spykman's book on Simmel. From all the hullabaloo emitted in certain circles, one might suppose that Simmel was the last word in sociological theory, when as a matter of fact he wrote practically everything fundamental to his system before 1904. Translations of the more important chapters in his *Soziologie* appeared in the *American Journal of Sociology* during the years 1901-1902, although the book incorporating them did not appear until 1908.

It is encouraging, therefore, to the lonely worker in the field of Continental sociological theory, when a book appears that, although opening with a discussion of Simmel, nevertheless deals in succeeding chapters with important recent writers—Vierkandt, von Wiese, Weber. The worthwhile periodical literature up to the middle

of 1928 has been drawn upon for its comment and criticism; Mr. Abel is to be congratulated for his industry and discrimination.

The importance of this book to the sociologist genuinely concerned about the fundamentals of his science cannot be over-emphasized. As sociologists gradually drift away from the older *omnium gatherum* notions, they are certain to become more and more concerned about delimitation of their field. True it is that life knows no boundaries, and that too anxious care for academic fences is one of the marks of the narrow, unimaginative pedant; it is also true, however, that there has been far too much premature "synthesizing" before the necessary analytical spadework has been accomplished. The man who devotes himself to a study of the Limitless Whichness and all the works is frequently afflicted with a mild sort of megalomania, although unkind critics have sometimes called it academic kleptomania.

This book is an antidote or purge for such disorders, a sack of ballast for the sociological Daedalus. It takes up the work of four men who, despite their differences, agree that encyclopedic sociology is merely another name for social philosophy, which, although necessary, is not and cannot be social science. They agree that encyclopedism must be replaced by systematic sociology, by a science having as its object-matter the field of human relationships, nothing less and *nothing more*. Just what they mean by "human relationships" cannot be discussed in the brief compass of a review; on this point Mr. Abel's book or the little pamphlet published by the Sociological Press, Hanover, New Hampshire, *Sociology, Its History and Main Problems*, by Leopold von Wiese, must be cited as references.

The reviewer by no means agrees with Mr. Abel's evaluation of the work of the four writers discussed, but that, as per Rudyard, is another story. No self-respecting sociologist should miss this book; it is a rare treat to find a doctoral dissertation that bears within it the marks of its author's maturity, thoroughness, and selective ability, and which deals with a topic of importance.

HOWARD P. BECKER.

BELL, KENNETH N., and MORRELL, W. P. *Select Documents on British Colonial Policy, 1830-1860*. Price, \$8.50. Oxford: Clarendon Press, 1928.

This period is one of the most characteristic and interesting in the long story of the British Empire, for it witnessed the abolition of the slave trade and the transportation of convicts, and the resultant economic problems aggravated by the adoption of free trade in England, unprecedented emigration and the subsequent growth of nationalism, and the slow evolution of a new colonial policy. Six hundred closely printed pages deal adequately with these and other topics. As the editors point out in their preface, their aim is to supplement existing collections and documents, and they have undoubtedly cast their net widely and made a wise selection. Some of the best extracts come from the *Times*, then at the height of its influence. Probably the general public agreed with the arguments in its leading articles that to grant self-government was as beneficial to England as to the colonies, inasmuch as governing them from Whitehall was an "intellectual treat for a few heaven-born statesmen" which cost the people of England "a needless annual outlay of some two millions" [sterling]. There was a curious pessimism in many of those most interested in the colonies, a feeling that autonomy would soon be followed by independence. The official attitude at Whitehall can be summed up as "trusteeship." The burden of governing backward races must be borne regardless of expense until their destinies could be safely entrusted to the white settlers in their midst.

In conclusion, two suggestions occur: that a list of colonial secretaries and under-secretaries should be given in an appendix, and that a short bibliographical note be added of the best histories of each colony. To evaluate policy a knowledge of the situation is essential—and the brief introductions to the different actions, though good, are too scanty to supply this. Hence the reader should be told where to look for fuller information.

G. DAVIES.

LAUCK, W. JETT. *The New Industrial Revolution and Wages*. Pp. ix, 380. Price, \$2.50. New York: Funk and Wagnalls, 1929.

This work gives an excellent account of the vicissitudes of the different wage criteria during the last two decades. The inadequate principle of supply and demand gave way during the War to that of adjusting according to changes in the cost of living—a makeshift method. Then followed the transition period, 1918-1922, during which the "living-wage" issue was a very live one, with employers insisting upon wage deflation as the most promising procedure for securing a firm basis for prosperity. But "the living-wage movement has been, in a general way, absorbed during the past five years by the general acceptance in the United States of the so-called productive efficiency theory of wage payments, which would stimulate indefinite wage advances so long as labor costs of production are reduced and reasonable margins of profits sustained" (p. 156).

The productive efficiency theory had been put forward without success by organized labor in 1914-1916. The experiences of the War period, however, had taught "the advantage in industry of mass production and coöperative efficiency" (p. 51; also p. 229). Moreover, by 1922 there was a growing conviction among employers that the policy of high wage payments tended to put purchasing power into the hands of consumers and to build up a strong domestic market. Soon the bulk of employers turned to "the rectifying of managerial inefficiencies, the elimination of wasteful methods and practices, and the securing of the coöperation and goodwill of industrial workers" (p. 72). "Increased productivity of labor and industry, advancing wages, higher living standards, and greater consuming or purchasing power, rapidly became the avowed policy and practical program of American industry" (p. 84).

Considerable numerical data are presented to show the recent tremendous industrial strides of the United States, in comparison with previous decades and with other countries. However, the lower

grades of labor, particularly in certain lines of industry, receive wages much below an adequate living standard, judged by authoritative budgetary compilations. The author deplores the scant attention that has been, and is now being, given to the matter of "a practical and equitable method of wage fixation and for the participation of wage-earners in productive gains" (p. 282). His own proposed method smacks strongly of physical and statistical elements.

W. E. BUTT.

LUNDBERG, GEORGE A. *Social Research: A Study in Methods of Gathering Data*. Pp. xi, 380. New York: Longmans, Green and Company, 1929.

This is the best book on research for graduate or advanced undergraduate students of sociology that has yet been written. The number of comparable volumes, indeed, is not large. As the author observes there are numerous books, particularly in the field of statistics, which discuss methods of employing data *after* they have been gathered; but not to exceed half a dozen which place the main emphasis upon the scientific observation and recording of these data. The latter is the primary task of the present volume. In discussing such topics, much labored in the journals and at annual meetings, as the sample in social research, the schedule as an instrument of observation, the interview and the social survey, the author shows a fine discrimination for what is essential, significant and useful. But what particularly commends the book to the reviewer is the lucid and convincing exposition in the first four chapters of the deterministic philosophy underlying the attempt to make "social science" scientific. The author is a thoroughgoing behaviorist. Moreover, he belongs to the school of Karl Pearson. He believes, as does the reviewer, that no *essential* differences distinguish the social from the physical sciences, or science from history. His theme is carried through courageously, without concession or compromise. Without pretense of originality, he has yet succeeded within less than a hundred pages in making the best summary

statement now available to the general reader of the ideas essential to this position.

STUART A. RICE.

WARE, NORMAN J. *The Labor Movement in the United States, 1860-1895*. Pp. xviii, 409. Price, \$3.00. New York and London: D. Appleton and Company, 1929.

It is highly probable that this volume will become the standard work upon the rise and fall of the Knights of Labor and the emergence of the American Federation of Labor from the ruins. Professor Ware has had access to private documents and letters of prominent labor leaders of this period and much new information is revealed. The story of this spectacular and ill-fated organization is accurately, graphically, and interestingly told. His estimate of Powderly is almost startling: "He was a wind-bag whose place was on the street corner rousing the rabble to concert pitch and providing emotional compensation for dull lives. They should have thrown him out, but they did not" (p. xvi).

CHARLES S. TIPPETTS.

OFFUTT, MILTON. *The Protection of Citizens Abroad by the Armed Forces of the United States*. Pp. viii, 170. Baltimore: Johns Hopkins Press, 1928.

This volume is No. 4 of Series XLVI of the Johns Hopkins University Studies in Historical and Political Science. It is especially timely in view of the recent activities of our marines in Nicaragua and China.

The author deals with seventy-six occasions on which the armed forces of the United States have operated on foreign soil or have engaged in actual hostilities with the nationals of other countries within the jurisdiction of a foreign state. These range from the Aegean Islands to Manchuria and from Mexico to the Falklands.

The study is prefaced with an introductory chapter on the Legal Aspects of Protection by Force, in which the author recognizes the well settled distinction between intervention and interposition. It closes with a chapter of conclusions which the author deduces from the incidents discussed. The most important of these

are, that the forces have been used to prevent injury as well as to enforce reparation, that they have been sent primarily against weak and unstable governments, especially in the Caribbean, and that "any further extension of our efforts in the Caribbean area must lead . . . to occupation and annexation."

The work is well indexed and contains an exceptional bibliography.

JOHN G. HERVEY.

MCKENZIE, R. D. *Oriental Exclusion*. Pp. viii, 200. Price, \$2.00. Chicago: University of Chicago Press, 1928.

Professor McKenzie has in this short monograph given us a good discussion of the effect of American immigration laws, regulations, and judicial decisions on the Chinese and the Japanese on the American Pacific Coast. A great deal of illustrative material is utilized, gleaned from official documents or from case histories, prepared by the investigators during the recent Pacific Coast survey of race relations. Some attempts are made to interpret sociologically the nature and the basis of exclusion.

THORSTEN SELLIN.

BRUNNER, EDMUND DES. *Immigrant Farmers and Their Children: With Four Studies of Immigrant Communities*. Pp. xvii, 277. New York: Doubleday, Doran & Company, Inc., 1929.

It is customary in this country to speak of modern European immigrants as an "urban problem" and to dismiss those who happen not to live in industrial cities as relatively unimportant. The Institute of Social and Religious Research should receive thanks for calling attention to and studying the farming foreign-born population of the United States, numbering in 1920 "nearly one and one half millions, which was a little less than half of the total number of rural immigrants and a scant fourth of the entire foreign-born population" (p. 3). It has been found that these immigrant farmers are economically successful, that their children are as intelligent as the children of native-born parents and do well

in American schools, and that they and their families taken an active, useful part in the social life of the community. Although there are many problems of adjustment facing these farming immigrants, the necessary transition can be and usually is made with no more than a reasonable amount of difficulty.

The appendices contain well selected related statistical material.

D. Y.

WATKINS, LEONARD L. *Bankers' Balances*. Pp. xvi, 429. Price, \$6.00. Chicago: A. W. Shaw, 1929.

An award of \$2,500, granted every three years to the best contribution in the field of business development and the modern trust company, has recently been established by the Chicago Trust Company. Professor Watkins' monograph received the first triennial prize.

This volume has as a sub-title, "A Study of the Effects of the Federal Reserve System on Banking Relationships," which epitomizes its purpose fairly well. The main defect of the old banking system was inadequate reserves. They were said to be perversely elastic and played an important part in developing commercial crises. With the passage of the Federal Reserve Act, it was hoped that by a careful marshalling of reserves under unified control this defect would be removed. To a large extent, though by no means entirely, this has been accomplished. "Just what the effects of the Federal Reserve System have been on inter-bank deposits" is the main problem of the work though, in bringing together and analyzing the materials on this point, much important corollary data are presented.

The periods 1902-1914, typifying National Banking experience, and 1915-1926, representing banking under the Federal Reserve Act, are used to show the changes which have occurred. While the work lacks a measure of unity in treatment, it will be found to contain much valuable information on inter-bank relationships heretofore appearing only in scattered articles and undigested form.

WRIGHT HOFFMAN.

HOTCHKISS, HENRY G. *A Treatise on Aviation Law*. Pp. 492. Baker, Voorhis & Co., 1928.

The author is dealing with a very difficult subject upon which to write a book. The whole field of aviation law is in such an undeveloped stage that it requires real courage to attempt an exposition of such law. Mr. Hotchkiss has done very good work in consideration of the limitations to which he is subjected.

The book is well documented throughout. The first hundred pages consists of the treatment of such subjects as aviation and international law, tort liability of owners and operators of aircraft, aircraft standards and rules of the road, aviation and the law of insurance, the air commerce act of 1926, etc. The authors' best effort is Chapter III, on proprietary rights in airspace as limitations on the right of flight.

The remainder of the book is composed of an appendix of three hundred and fifty pages in which the writer has compiled most of the important international conventions and national and state laws pertaining to aviation.

Because of the embryonic stage of aviation law, all the books so far written in the field seem unsatisfactory. With this thought in mind, the reviewer would appraise this book as a much better effort than most of the recent books covering this field.

CHARLES C. ROHLFING.

COMER, JOHN PRESTON. *Legislative Functions of National Administrative Authorities*. (Columbia Studies in History, Economics, and Public Law, No. 289.) Pp. 274. Price, \$4.00. New York: Columbia University Press, 1927.

An ever-growing number of the laws of Congress are in the form of broad, general, outline acts; the details of these acts are supplied by a great number of departmental regulations, and executive orders. These regulations have the force of law and thus administrators have a legislative function.

The best chapters of the book deal with: the history of delegated legislation since 1789; its constitutionality; and the safeguards from the abuse of executive discretion.

The author has drawn his material from a wide field including: U. S. Statutes; U. S.

Supreme Court Decisions; Commerce Reports; Treasury Decisions; Senate and House Debates; Opinions of the Attorney General; Law Review Articles and other references.

Because it is well written and because it is unusually thorough in its treatment of the subject, this book has the distinction of being the best of the recent works in this field.

EDWARD CARTER.

MAZE, COLEMAN L., and GLOVER, JOHN G. *How to Analyze Costs*. Pp. xiii, 389. Price, \$5.00. New York: The Ronald Press Co., 1929.

This book was designed primarily as a text for use in advanced schools of business, the purpose being to present a detailed analysis of manufacturing, selling and administrative costs and organizing a procedure to determine the causes of variations from either previous period figures or from predetermined estimates.

The authors have developed the subject of standard costs and the first eight chapters are devoted to the subject of standards and ideas that the reader should be familiar with in order to understand the remainder of the book. A portion of the book is devoted to the description of the various kinds of factory costs with analyses of causes for variations in cost. Several chapters set forth the analysis of selling and administrative expenses and the analyses thereof. The part of the text describing a standard cost system and the use of the budget and the development of means whereby the information derived from the costs records can be made more useful to the executive is especially well developed.

The text is well written, refrains from entering into matters of a controversial nature and should prove a very welcome addition to the reference library of those interested in the subject of cost.

A. T. CAMERON.

PINK, LOUIS H. *The New Day in Housing*. Pp. 207. Price, \$3.50. New York: The John Day Co., Inc., 1928.

TOWNROE, B. S. *The Slum Problem*. Pp. 220. Price, 6s. London: Longmans, Green and Company, 1928.

Here are two new discussions of the housing problem—one by a New York

attorney who is a member of the New State Housing Board, the other by an Englishman who served for several years in the department of housing of the British ministry of health. Both books are well written, and contain a wealth of material for students of housing. They differ radically in viewpoint, however. Mr. Pink looks with favor upon the New York housing law of 1926, while Mr. Townroe regards it as a piece of governmental folly.

A. F. M.

BASSETT, EDWARD M., and WILLIAMS, FRANK B. *Zoning Cases in the United States*. Pp. 59. New York: Regional Plan of New York and Its Environs, 1928.

This small volume contains a list of American court decisions relative to zoning, and is complete to March 1, 1928. Some of the more important cases dealing with nuisances, police power and other separate ways—alphabetically, alphabetically by states, and according to subject matter. The names of the authors are a sufficient guarantee that the task of compilation has been thoroughly done.

A. F. M.

FISHER, IRVING. *The Money Illusion*. Pp. xv, 245. Price, \$2.00. New York: Adelphi Co., 1928.

The money illusion is the popular view that money itself is stable in value. In this interesting little volume, Professor Fisher explains to the layman how money fluctuates in value, how this fluctuation affects various groups in the community and what may be done by individuals, by banks and by governments to bring it under control. It is a brief, simple and effective statement of an economic problem of major importance.

C. W.

Propagating Crime Through the Jail and Other Institutions for Short-Term Offenders. Pp. 31. New York: The National Crime Commission, 1928.

This is another in the series of valuable pamphlets which Dr. Louis N. Robinson has prepared and published as a report of the National Crime Commission's Sub-

Committee on Pardons, Parole, Probation, Penal Laws and Institutional Correction. He pictures the horrors of the jail system and points the way to remedies in increasing state control over local institutions, separate confinement of those who have been convicted and those who are merely being held for trial, classification and specialized institutional treatment of convicted prisoners and the increasing utilization of probation as a substitute for imprisonment.

C. W.

BOND, F. D. *Stock Movements and Speculation*. Pp. 194. Price, \$2.50. New York: D. Appleton and Co., 1928.

This is a general survey of stock price movements. Emphasis is placed upon those factors affecting all stock prices such as the money market, market control, and special speculative methods. Little is to be found that is at all new.

G. WRIGHT HOFFMAN.

United States Department of Commerce Standards Yearbook, 1929. Pp. vi, 401.

The current edition of this *Yearbook*, like the two preceding ones, is invaluable source material for all who are interested in the progress of the United States Bureau of Standards and its allied agencies. The reports of the activities of the technical societies and trade associations showing the extent to which standardization has come into America's industrial life are particularly interesting. Attention is given to the development of the standardization movement in foreign countries.

RICHARD H. LANSBURGH.

HARTMAN, DENNIS. *Index of United States Board of Tax Appeals*. Pp. 191. Price, \$4.00. Washington: Legal Publishing Society, Inc.

This is an index to the decisions of the Board of Tax Appeals, beginning with the inception of the Board, to and including Volume Ten B. T. A. The object of this work is to enable the enquirer to locate all Board decisions on a point in question, with the least possible effort.

BLACK, JOHN D. *Agricultural Reform in the United States*. Pp. 511. Price, \$4.00. New York: McGraw, Hill Book Co., 1929.

This is the most informative book to date on agricultural reform. The author's facts are authoritative and his judgments well seasoned.

Part I analyzes the present agricultural situation. Part II discusses surpluses.

Part III appraises price raising by government action, particularly the tariff debentures, equalization fee plan, and the domestic allotment plan. Part IV discusses adjustment through individual and coöperative effort, and Part V is devoted to specific reforms such as production, land utilization, marketing, transportation, immigration, credit, and taxation.

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INDIA

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Constitutional Development and Political Ideals

By THE RT. HON. THE EARL OF RONALDSHAY, P.C.; G.C.S.I.;
G.C.I.E.; D.Litt. (Calcutta)
Governor of Bengal, 1917-1922

THERE are certain basic facts which have to be borne in mind when considering the question of constitutional development in India and that of the political ideals of her peoples. These facts are the size of the area to be dealt with; the diversity—racial, linguistic, religious and cultural—of the population, and the past history and traditions, more particularly of the Hindu people. The Indian Empire, that is to say India proper with its Native States and Burma, is approximately as large as Europe, exclusive of Russia. It is, however, less than two-thirds the size of the United States of America and it is clear, therefore, that the mere extent of the area to be dealt with presents no insuperable obstacle to the gradual evolution of a democratic form of Government, if that be the type of Government, which the peoples of India eventually decide that they desire. The analogy of the United States suggests, however, that in form any such Constitution must be of the Federal type evolved in America, rather than a strict copy of what may be described as the unicellular pattern evolved in a small, compact and homogeneous territory such as Great Britain.

DIVERSITIES

It is, however, in respect of the size and heterogeneity of the population that the analogy of the United States ceases to hold good. As compared with the 105,000,000 of America proper, the population of India is approximately 320,000,000. And the diver-

sity of tongues of this vast aggregation of human beings is so great that hitherto the language employed, not only in the various Legislative bodies that have been set up, but in such popular gatherings of public men from different parts of India as the Indian National Congress, has been English. Actually 222 dialects belonging to six distinct families of speech, namely, the Austric, Dravidian, Indo-European, Karen, Man and Tibeto-Chinese, are officially recognised, though there are, of course, Indian languages such as Hindi and Urdu which are spoken and understood by very large numbers of Indians even though they be not necessarily their mother tongues.

It is not only the diversity of tongues, however, that has to be taken into account when considering the question of Constitutional development. The religious cleavages between great fragments of this polygenous and polyglot population, numbering as it does within its midst the adherents of no less than nine great religions, cannot be altogether ignored, for they have proved sufficiently powerful in the case of two of them to compel those who framed the existing Constitution, to concede to their adherents separate representation in the Legislative Councils by means of separate electorates. Thus throughout India the Muhammadan members of the Legislative bodies are elected by constituencies composed exclusively of Moslem electors; and in the Punjab a similar concession has been granted to the Sikhs.

Of equal importance from the point of view of Constitutional development

is the cultural chasm which sunders the people at one end of the social scale from those at the other. At one end are to be found primitive tribes sunk in almost unplumbed depths of barbarism and superstition; at the other the fine flower of more than two millennia of culture. And between these two extremes are to be found every phase of civilisation from the pre-historic to the ultra modern, from the stone age to the twentieth century. Nor can the influence of the Hindu caste system in emphasising the gulf between the higher and the lower orders of the people be overlooked. There has been also in comparatively recent times another force at work, adding to the already existing diversities.

One of the most striking contrasts in a land which revels in antitheses is that between the comparatively small English-educated section of the population and the great mass of the people. The former constitutes a versatile, highly polished minority which has imbibed the spirit of Europe, has been educated on Western lines, speaks an alien tongue—English—with remarkable fluency, produces great judges, great lawyers, fine scholars, eminent scientists, capable administrators and a large number of politicians. The latter is engaged mainly in agriculture and is, generally speaking, illiterate. It must not be assumed, however, that because it is illiterate, it is therefore unintelligent. In India the two terms are in no sense synonymous.

There is yet one more diversity which presents a problem of fundamental importance to anyone who tries to visualise the Constitutional organisation of the India of the future, and that is the existence, scattered widely over the sub-continent, of a large number of Native States, some great, some small, over whose internal affairs Great Britain exercises no direct

administrative control, but whose rulers are in treaty relations with the Crown. Such States in various stages of political evolution, governed for the most part autocratically and none as advanced politically as British India, cover nearly two fifths of the total area of the land and embrace not far short of one quarter of its population.

PARLIAMENTARY GOVERNMENT

Such then are the circumstances of the peoples on whose behalf self-governing institutions of a democratic type are being demanded. How did the demand arise? Parliamentary Government, as the peoples of the West understand it, is not a product of the Eastern mind. There are ancient records, it is true—notably in the Buddhist canon—which show that corporate activity was common in India in very early days. But such corporate life seems to have been confined to comparatively small units such as Village Boards, craft guilds, and, in the case of the Buddhists and Jains, assemblies of the members of the monastic orders founded by Sidhartha Gautama and Mahavira respectively; while in the affairs of State the system of government was much more autocratic than democratic. And it is significant that when, towards the close of the eighteenth century, Japan, the most advanced of all the nations of the East, in a Western sense, decided—not under pressure from alien masters but of her own free will—to adopt a modern form of Constitution, it was neither to Great Britain nor to America that she turned for a model, but to Germany with her Executive responsible, not to a popularly elected Parliament, but to the Emperor as the supreme authority in the State.

The Indian demand for a Parliamentary form of Government is due

to her long and intimate contact with Great Britain, and to the fact that ever since the British people assumed responsibility for the Government of India they have aimed at setting up, by slow degrees, institutions modelled as closely as circumstances would permit upon their own. The process has been instinctive rather than deliberate. When, about the year 1600 A.D., a band of merchants, with a charter from Queen Elizabeth in their pockets, set out for the East Indies, they did so with the intention of carrying on a lucrative trade, not of laying the foundations of a modern State in the heart of the immemorial East. It was the break-up of the Moghul Empire and the anarchy that followed from it that compelled the East India Company to take matters into their own hands and gradually to extend their sway over the sub-continent.

EARLY PROGRESS

Little was heard of any demand for Parliamentary Government till the nineteenth century was drawing to a close. By that time the fine spun web of an elaborate system of administration had been spread over the land, controlled by a highly trained Civil Service, acting under the direct orders of the Viceroy and his Council and the Governors and Lieutenant Governors in the various Provinces. For the management of purely local affairs, small self-governing institutions such as District and Municipal Boards had been set up, consisting of limited numbers of official and non-official members, partly nominated and partly elected on a restricted franchise, with experienced officials at their heads. It was intended that these bodies should become in course of time the counterpart of the County and Borough Councils of Great Britain. Had the founda-

tions of the ancient system of village government not been so entirely submerged by the welter of anarchy which accompanied the dissolution of the Moghul Empire, the architects who drew the plans of the structure of Local Self-Government in the days of Lord Ripon might have done so on rather different lines. But they found little to guide them in the India of their day and they, not unnaturally, drew their plans on the model with which they were themselves familiar.

The institutions thus set up excited little enthusiasm in the minds of the considerable body of Indian public men which now—mainly through the agency of the Indian National Congress—began to make itself heard. A few Indians had been invited to co-operate with the Government in a Legislative capacity, both in the Provinces and at the Headquarters of the Central Government. But up to the year 1909 the Legislative Councils were merely the Executive Councils with a few representative Indian gentlemen coöpted to them for the purpose of making laws, and discussing, though not voting upon, the annual Imperial and Provincial Budgets.

Those Indians who at the beginning of the twentieth century were voicing the political aspirations of their countrymen were the product of two or more generations of English education—education framed on purely English lines, given at colleges whose curricula followed the lines of the ordinary courses given in England, and imparted whether in Bengal, or in Madras, or in Bombay, or in the Punjab, or in any other part of India, in the English language. They had imbibed the theories of British political science taught by Mill and other political writers, and they now demanded the fruit of the tree which had been planted in their soil. The

demand was, in the circumstances, a perfectly natural and logical one, though here again it is reasonable to suppose that just as the British authorities of Lord Ripon's day might have planned Local Self-Governing Institutions on an Indian, rather than on an English model, had they found one to their hand, so might the Indian National Congress have advocated the creation of a system of self-government more in consonance with Indian ideas and tradition, had it not been composed almost exclusively of men who had been brought up on a purely English plan.

THE MINTO-MORLEY CONSTITUTION

The first definite response made by Great Britain to the demand of the Indian National Congress was the enactment by the British Parliament of the Government of India Act of 1909, establishing what was known as the Minto-Morley Constitution. The outstanding feature of the Constitution of 1909 was the composition of the new Legislative Councils. They were composed partly of official and partly of non-official members appointed partly by nomination and partly by a system of indirect election. In the case of the Provincial Legislative Councils—though not in the case of the Central Legislative Council of the Governor-General—there was a majority of non-official members. Subject to the veto of the Lieutenant Governors, Governors and the Viceroy, these new bodies were given large powers of control over legislation, and they were also able to bring no little influence to bear on the Government in respect both of its policy and of its executive acts. Side by side with this enlargement of the size and powers of the Legislative Councils, a well-known Indian public man, Sir S. P. (afterwards Lord) Sinha, at one time President of the

Indian National Congress, was admitted for the first time to membership of the Council of the Governor-General, the supreme executive authority in India.

The avowed object of this scheme was to associate with the British in the task of Government, representatives of the landed aristocracy of India, of the mercantile and industrial classes, and of the middle and professional classes of moderate outlook, who, under the Constitution then existing, had no sufficient inducement to enter political life and found little scope for the exercise of their legitimate influence on the fortunes of their country. Neither Lord Morley nor Lord Minto was willing to subscribe to the view, either that Indian conditions admitted of the establishment of Parliamentary Government, or that the Constitution for which they were responsible was intended to lead up to it. Lord Morley declared with some emphasis that he would have nothing to do with any reform that would be likely to lead to the establishment in India of a Parliamentary system. Lord Minto was equally emphatic.

We have distinctly maintained,

he declared in the course of the speech with which he opened the new Imperial Legislative Council on January 25, 1910,

that representative Government in its Western sense is totally inapplicable to the Indian Empire, and would be uncongenial to the traditions of Eastern peoples—that Indian conditions do not admit of popular representation—that the safety and welfare of this country must depend on the supremacy of British Administration—and that that supremacy can, in no circumstances, be delegated to any kind of representative assembly. We have aimed at the reform and enlargement of our Councils, but not at the creation of Parliaments.

GREAT BRITAIN'S POLICY

How rapidly opinion in such matters was changing was dramatically demonstrated when in August, 1917, only seven years after these declarations had been made, the Government of Great Britain solemnly announced in the House of Commons that their policy in regard to India was

the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in that country.

And having made this momentous statement they very properly added that they had decided that substantial steps should be taken in this direction with the least possible delay.

The declaration disclosed a very marked change in point of view, not as to the goal to be aimed at, but as to the particular means by which the goal was to be approached. As to the goal, Lord Minto and Lord Morley, in 1909, equally with Lord Chelmsford and Mr. Montagu, in 1917, aimed at transferring control over the internal administration of the country by gradual stages from the hands of its British rulers to the peoples of the country themselves. In other words the ultimate aim of both was the granting of self-government to India. But, whereas, Lord Minto and Lord Morley held the view that Parliamentary Government in its Western sense was inapplicable to India, and was generally uncongenial to the sentiments and traditions of Eastern peoples, the Government of 1917 specifically laid it down that it was by the establishment of Parliamentary Government as understood in the West, that they intended that the goal should be approached.

That this was so is clear from the wording of the Declaration itself,

which laid down that the policy to be pursued was that of the gradual development of self-governing institutions, "with a view to the progressive realisation of *responsible* Government in India, as an integral part of the British Empire." To the Englishman "responsible self-government" means one thing and one thing only—Government on the English model, the fundamental feature of which is an Executive *responsible* to a popular Assembly, the members of which are in their turn *responsible* to an electorate. This view was further fortified when the comprehensive Report, embodying concrete proposals for giving effect to the policy laid down, was written. The persons charged with the task of devising a scheme in accordance with the policy decreed were Lord Chelmsford, the Viceroy, and Mr. Montagu, the Secretary of State, assisted by a small Commission, who after taking evidence in all parts of India issued a Report in which, commenting on the nature of the policy to which they had been instructed to give effect, they wrote:

The policy, so far as Western Communities are concerned, is an old and tried one. Englishmen believe in "responsible" Government as the best form of Government that they know; and now in response to requests from India they have promised to extend it to India also.

The intention, then, was clear and it remained only to devise a scheme to give effect to it. At the very start those who were entrusted with the duty of framing the new Constitution were faced with a formidable complication. Parliament in England had not merely decreed the creation of Parliaments in India, but had laid it down that the process of creation was to be a *gradual* one. There was no difficulty in creating with a stroke of the pen—on paper at any rate—electorates and

Parliaments; there seemed to be, even in theory, almost insuperable difficulties in the way of doing these things by stages. And it was out of this difficulty that emerged the unique form of Constitution which has come to be known as Dyarchy.

DYARCHY

It was decided that while an increased degree of influence over the Central Government with the Viceroy at its head, should be conferred upon Indians by the establishment of a quasi-Parliamentary body consisting of two chambers—the Imperial Legislative Assembly and the Council of State—and the appointment of a second Indian member to the Viceroy's Executive Council, the introduction of "responsibility" should at first be confined to the Provincial Governments, corresponding roughly to the State Governments in America. Dyarchy must be studied, therefore, in the Provinces, and Bengal as one of the most advanced Provinces may be taken as an example.

The difficulty in the way of creating a homogeneous electorate must be sufficiently obvious from what has been said as to the character of the population at the beginning of this chapter, and need not be stressed further here. Suffice it to say that in Bengal, with a population of approximately 50,000,000, an electorate of rather more than 1,000,000 was created. The Hindu electors were then invited to elect 46 of their Community to represent them in the new Parliament and the Moslems to elect 39 of their co-religionists to represent them. The remaining seats in a Parliament of 139 members were filled partly by nomination and partly by election by special constituencies such as Chambers of Commerce, large landholders, the European population and so on. In this

way a Parliament was created for Bengal.

But it was when it came to making the Government gradually responsible to this Parliament that the real difficulty began. Hitherto the Government of Bengal had been responsible through the Secretary of State to the Parliament of Great Britain. In theory there was no difficulty in relieving it of its responsibility to the British Parliament, and making it instead responsible to the Parliament of Bengal. But it had been laid down quite definitely that this was to be done gradually. Could responsibility be transferred gradually, and if so, how? Was there any possible half-way house between an Executive which was wholly independent of the Bengal Parliament and an Executive which was wholly responsible to it? There seemed to be only one way in which this could be done, namely, by dividing both the field of administration and the Bengal Government into two parts, handing one part of the field to a Government consisting of Ministers chosen from the Bengal Parliament and responsible to it; and retaining the other part in the hands of a Government consisting, as before, of a Council responsible for its actions to the Secretary of State. This was, indeed, what was done, the control of Education, Public Health, Public Works, Agriculture, etc., being vested in the representative half of the Government, and the control of the Law Courts, the Police, the jails, etc., in the Executive Council of the Governor. The Government under this new Constitution thus consisted of two separate bodies held loosely together by the Governor of the Province, who was armed with tolerably wide reserve powers, to enable him to act in an emergency over the head of the Legislature.

It is impossible, in the space avail-

able, to explain in detail the checks and balances of this delicately poised machinery. A typical example must suffice. The Executive Council of the Governor—known as the Reserved half of the Government—though not responsible to the Bengal Parliament in the technical sense of the word was, nevertheless, dependent upon it for legislation affecting the subjects under its control; and in the event of Parliament refusing to pass a measure deemed by the Governor to be essential for the discharge of his responsibility for the subject, such a measure might, nevertheless, become law, provided it received the assent of the Governor General and, after being laid before both Houses of Parliament in Great Britain, of his Majesty in Council. Similarly, while the Budgets of both parts of the Government had to be submitted to the Bengal Parliament in the form of demands for grants which might be assented to, reduced or rejected by it, a demand in respect of a "reserved" subject, which was reduced or rejected, might be restored by the Governor.

Such in brief is the Constitution set up by the Act passed by the Parliament of Great Britain in 1919. It carries out to the letter the policy laid down by the Declaration of August 20, 1917, for it has introduced a system of responsible self-government and it has introduced it gradually. Moreover, it has done so in such a way that at any moment further portions of the field of administration may be detached from the control of the Executive Council and added to that of the Ministry responsible to the Bengal Parliament, until the whole has been so transferred when Bengal, and *pari passu* with Bengal the other Provinces of India will find themselves equipped with full responsible self-government on the English model. The Act of 1919 does,

indeed, provide for the appointment of a Commission to enquire into the working of the new Constitution and to report as to whether and to what extent it is desirable "to establish the principle of responsible government, or to extend, modify or restrict the degree of responsible government then existing."

INDIA'S FUTURE

The Commission contemplated by the Act, with an eminent jurist, Sir John Simon, at its head, has now (1928) been appointed, and for the next year, and more, will be engaged upon its difficult and responsible task. India, therefore, stands today at the parting of the ways. Now, if ever, must she say whether she desires to see the Constitution, under which she will be governed, completed on the model provided by the Constitution of Great Britain, with such modifications as may be necessary to fit it into a Federal frame; or whether she desires to see such alterations effected in it as will bring it into greater harmony with the past practice and traditions of her peoples.

Indian opinion, so far as it has hitherto expressed itself on this point, has been far from unanimous. Leading men both Hindus and Muhammadans have advocated systems of Government for India differing in fundamental particulars from that which has been evolved through centuries of time in Great Britain. And it is at least significant that in the Native State of Mysore a Committee composed exclusively of Indians should—since the passing of the Act of 1919 for British India—have drafted a Constitution for that State which repudiates the introduction of responsible government on the lines on which it has been introduced in the Dyarchic Constitution in British India. I have given in a

volume, entitled *The Heart of Aryavarta*, a summary of the recommendations of the Mysore Committee, and have space here to mention only two of the more important features of the Constitution. One is the means by which true representation of the people is sought to be secured in the Representative Assembly. Neighbourhood is admitted to be an important bond and territorial electorates a necessary basis of representation. But the ties of common interests and common functions that bind men into groups independently of the tie of neighbourhood, that is, any profession such as medicine, or the law, acquire, in the opinion of the Committee, greater importance with the more complex evolution of society.

A citizen of a State is a citizen, not merely because he resides in a particular locality, but really by virtue of the functions he exercises and the interests he has at stake in the body politic.

The constituencies returning members to the Representative Assembly are,

therefore, vocational in addition to territorial.

The other outstanding feature to be noted is that the Executive is neither responsible to, nor removable by the Legislature, but only to and by the Head of the State. The primacy of the people is secured and the unity between them and the Head of the State made living and effective by a right of initiative and referendum vested in the Representative Assembly.

Under the terms of the Act of 1919, the Commission of Enquiry is authorised to report, if it thinks fit, to what extent it is desirable that the principle of "responsible Government" should be *modified*. And for those who view with special interest the process of social and political evolution now in progress in the East, the conclusion of supreme importance at which the Simon Commission must arrive will be, not whether a larger or smaller advance shall be made along the existing Dyarchic road, but whether the structure of the system itself shall not undergo fundamental alteration.

The Indian Constitution

By SIR TEJ BAHADUR SAPRU, K.C.S.I., LL.D.

Law Member of the Viceroy's Executive Council, 1920-23; represented Government of India at the Imperial Conference, London, 1923

IT is not intended in this survey of the administration of India to trace in detail the origin and growth of British power in India. How, and by what gradual steps, and also by certain cataclysms a company of merchants originally intended to establish trade relations between Great Britain and the East Indies, ultimately succeeded in becoming a sovereign power, is one of the most fascinating chapters in human history. The fact that matters here is that by the middle of the nineteenth century the sovereignty of India had passed into the hands of the East India Company. In 1858, the British Parliament passed the Government of India Act, as a result of which the East India Company disappeared from the scene and the Crown took over the direct administration of India.

THE SECRETARY OF STATE

The Act created the Secretary of State for India to exercise such powers and to perform such duties relating to the Government of India as were exercised or performed by the East India Company. The simplest way of understanding the position of the Secretary of State is by remembering the provisions of the section of the Act which gave him the power to

superintend, direct and control all acts, operations and concerns which relate to the Government or revenues of India.

In actual practice, he was the new "Great Moghul" in the place of the old. To the people of India he was not constitutionally responsible, his responsibility being to the British Parliament alone. Since 1919, the salary of

the Secretary of State has been placed on the British estimates, to enable Parliament to discuss Indian affairs more effectively. In actual fact, his position in Parliament continues to be as secure as ever.

With the Secretary of State was associated a council generally known as the India Council. It consists, by statute, of between eight to twelve members, each of whom must have resided in India for at least ten years and must not have left India more than five years before appointment. Lord Morley, the then Secretary of State, appointed the first Indians to the Council, in 1907. Since then, several Indians have held the office. The Act requires the Council,

under the direction of the Secretary of State, to conduct the business transacted in the United Kingdom in relation to the Government of India.

No business can be brought before the Council except by the Secretary of State, and though the latter cannot get certain types of business done, without the consent of the former, the India Council essentially remains a consultative body.

For years past, Indian opinion has protested against the continuance of the India Council. Whatever may have been the utility of such a council forty or fifty years ago, it is felt that in the rapidly changing circumstances of India, the presence of retired members of the Indian Civil Service, or of the Army, or of retired English businessmen, does not supply an element of progress. The Civil Serviceman, it is felt, may have been a good adminis-

trator, but his outlook on big political issues is very far removed from that of a statesman accustomed to deal with questions of policy. Barring a few exceptions, Civil Servicemen have usually believed that efficient administration was all that India wanted, so that they have seldom been known to sympathise with Indian political sentiment of ideals.

The Secretary of State is the constitutional advisor of the Crown in all Indian matters. Appointments to all the highest judicial and executive offices in India are made on his advice. The Royal prerogative of vetoing any piece of Indian legislation is also similarly exercised. He exercises a very real control over the Government of India in three different ways: (1) He exercises administrative control in a variety of ways. The Government of India are in constant touch with him and obtain his advice, opinion, assent of sanction before they take any important step affecting the country, or come to any decision on a big question of policy. (2) He exercises financial control under Section 21 of the Government of India Act and a number of rules in force. (3) He next exercises legislative control with the result that there is scarcely a piece of important legislation which is not previously reported to the Secretary of State even when his previous sanction is not sought.

EXECUTIVE RELATIONSHIP

A controversy has for long raged on the question of the relations of the Secretary of State and the Governor General of India. Whereas, Lord Morley and certain other eminent statesmen have been distinctly inclined to the view that the Governor General was really subordinate to the Secretary of State, Sir Valentine Chirol and others have strongly contested

this theory on the ground that the Governor General is the direct and personal representative of the King Emperor in India. Leaving aside the political aspect of the question, and confining oneself to the strictly constitutional point of view, it is somewhat difficult to challenge the position of Lord Morley. No doubt the Governor General is also the Viceroy, and the two positions are absolutely distinct. But in his administrative capacity he is only the Governor General. Indeed, the statute nowhere speaks of him as Viceroy, and the fact of his being the Viceroy does not make him any the less amenable, as Governor General, to the control of the Secretary of State. Under section 33, he is required to pay due obedience to all orders of the Secretary of State, whose control, in practice, is at once open and insidious, visible and invisible. There is also a vast amount of private and personal correspondence of which no record is kept, and which is not ordinarily available to the members of the Governor General's Council or of the India Council, which is carried on between the Secretary of State and the Governor General. The Commission on Mesopotamia condemned this practice as being unwarranted by statute. It would thus appear that the relations of the Secretary of State and the Governor General are of special confidence which is not shared by the members of the India Council or the Governor General's Council.

THE CENTRAL EXECUTIVE

The expression, the Government of India, really means the Governor General in Council. The number of members of the Council is not prescribed by statute, but it is prescribed that

three at least of them must be persons who have been for at least ten years in the serv-

ice of the Crown in India, and one must be a barrister from England or Ireland or a member of the Faculty of Advocates from Scotland or a pleader of a High Court of not less than ten years standing.

The Commander-in-Chief, for the time being, of His Majesty's forces in India, is a member of the Governor General's Council, and has rank and precedence after the Governor General. If there is a difference of opinion on any question at a meeting of the Governor General's Executive Council, the Governor General is bound by the decision of the majority of those present, having the right to give a casting vote in case of a tie. In respect of a measure affecting the safety, tranquillity or interests of British India, or any part of it, the Governor General may override the decision of his Council, and on his own responsibility and authority, adopt, suspend or reject the measure in whole or in part. In exceptional circumstances the Governor General may exercise all the powers of the Governor General in Council. Ordinarily the Governor General in Council cannot enter into a war or make a treaty without the express order of the Secretary of State in Council. However, if hostilities have already commenced against the British Government in India, or against an Indian State, he can do so.

The Governor General in Council, representing the Central Executive, functions subject to the control of the Secretary of State, and is ultimately answerable to Parliament. It is not responsible to the Indian Legislature, which cannot, therefore, remove it or replace it by another. Morally it may respond to the recommendations of the Legislature, but constitutionally it is not incumbent upon it to do so.

The Government of India is divided into a certain number of departments, each being in the charge of a member.

The Foreign and Political departments are under the direct charge of the Governor General. There is a secretary attached to each department, and a certain number of Under Secretaries and Assistant Secretaries. The departments at present are: (1) Home, dealing mainly with law, order and justice, and the Indian Civil Services; (2) Finance; (3) Commerce, Railways and Ecclesiastical; (4) Industries and Labour; (5) Education, Health and Land; (6) Law. The Law Department is not an originating department. It generally advises the Government of India on constitutional matters. Ordinarily, every member in charge of a department disposes of such questions as come before him. If it is a question involving a matter of policy, he refers it to the Governor General, who may order the case to be circulated and subsequently discussed by the Executive Council. The secretary attached to a department is a secretary to the Government of India and not to the Member for the department, and may take over a matter directly to the Governor General if he dissents from the Member for that department. In such cases, ordinarily the Governor General decides the case, unless he considers it sufficiently important to make it a "Council Case."

THE CENTRAL LEGISLATURE

The Central Legislature of India, created by an Act of Parliament in 1919, consists of a Lower Chamber called the Legislative Assembly, and an Upper Chamber called the Council of State. Each Province has a certain number of seats reserved to itself, the seats being then distributed over the constituencies in the Province.

The Legislative Assembly is not wholly elected. The present composition of the elected portion of the Assembly comprises 49 representatives

elected by the Non-Muhammedans, 30 by Muhammedans, 8 by Landholders, 9 by Europeans, 4 by Chambers of Commerce, 2 by Sikhs, and 2 are generally elected. The total of these elected members comes to 104. There are 14 more who are nominated to represent special interests. In addition there are 26 official members, that is, the members of the Governor General's Executive Council, the representatives of each one of the Provincial Governments, and so on. Thus the total strength of the Assembly comes to 144. The position of the Council of State is worse from a constitutional point of view. It consists of 60 members in all, of whom 33 are elected by general constituencies spread all over the country, and 27 are nominated by Government, of whom 20 are officials and 7, non-officials. The composition and colour of the Council of State is such that the Government are almost always certain of a majority.

It is misleading to talk of the Legislative Assembly as India's Parliament. It is neither wholly representative, nor has it unrestricted powers of legislation like the Dominion Parliaments. The more important of these restrictions may be noticed here. Section 65 of the Government of India Act, 1919, defines the powers of the Indian Legislature. Generally speaking, it legislates "for all persons, for all courts and for all places and things within British India." But it cannot make any law affecting or repealing any Act of Parliament extending to India, passed after 1860, nor any Act of Parliament enabling the Secretary of State to raise money for India in the United Kingdom. Further, it cannot pass an Act affecting the authority of Parliament, or any part of the unwritten laws of England, whereon may depend the allegiance of any person to the British Crown, or affecting the sov-

ereignty of the Crown, over any part of British India. Similarly, no measure can be introduced in the Assembly without the previous sanction of the Governor General if it affects the public debt or revenues of India, or the religion or religious rights of any community, or the discipline or maintenance of His Majesty's military forces, or the relations of the Government with foreign princes or states, and certain other matters. The Governor General, as distinct from the Governor General in Council, can direct, at any stage in the passage of a bill, that no further proceedings shall be taken in regard to the bill, if he certifies that it affects the safety of tranquillity of British India.

The Legislative Assembly cannot vote upon, and, unless the Governor General permits, cannot even discuss the parts of the budget providing for interest and sinking fund charges on loans, or for the salaries and pensions of persons appointed by the Secretary of State in Council, or for expenditure classified as political or defence. The other parts of the budget are votable by the Assembly, but even in their case the Governor General in Council can restore a grant thrown out by the Assembly, if he considers it essential for the discharge of his responsibilities to do so. The Governor General has the additional power to authorize such expenditure as he feels is necessary for the safety or tranquillity of British India or any part of it. After a bill is passed by both the chambers of the Indian Legislature, the Governor General can return it to either House for reconsideration. He can also refer it to a joint sitting of the two Houses. The Governor General has, in the last resort, the right of veto, which, even after his assent is given, can be exercised by the Crown as a Royal prerogative.

The most serious limitation, how-

ever, is one by which the Governor General can certify that the passage of a bill is essential for the safety, tranquillity, or interests of British India, whereupon it becomes law even without being passed by either House of Legislature. The most notable instance of its use was the certification of the bill to double the salt tax in 1923. This power of certification has deepened the sense of conflict between the Executive and the Legislature, and has made the latter anything but an independent body. The power seriously impedes the growth of a sense of responsibility in the Legislature. To do away with it would mean converting an irresponsible Executive into a responsible one, which is the gist of the whole political struggle in India at present. Lastly, the Governor General can make and promulgate ordinances for the good government of British India, which have all the force of an Act passed by the Indian Legislature. Such ordinances are enforceable for not more than a period of six months.

REPRESENTATION AND FRANCHISE

One feature of popular representation in the Central, as also the Provincial Legislatures in India, is that the electorates are not wholly territorial. A certain number of seats in the Legislatures are held by Muhommedan members who are returned exclusively by separate Muhommedan electorates. Similarly, some seats are occupied by members who are returned exclusively by Landholders or Zamindars, or European, or Indian Chambers of Commerce.

These communal and special electorates are severely criticised by Hindu nationalists as being wrong in principle. In their opinion, they have retarded the growth of territorial patriotism, and intensified the communal consciousness in the people.

On the other hand, the Muhommedans, who form the most important minority community in India, have hitherto greatly cherished these separate electorates, and together with others who have enjoyed the privilege, are reluctant to forego it. One hopeful feature of the present situation, however, is that an appreciable body of opinion among the minorities is now favouring joint electorates with reservation of seats for the minorities. The protection of the submerged classes also has to be looked to. Without providing them perfect equality in civil matters and equal opportunities for education and general uplift, an attempt at evolving a stable constitution for India cannot be successful. The present system of Government nomination of members of these classes to represent their interests is considered at best very inefficient, and at worst it encourages such representatives to indulge in indiscriminate attack on even that section of the elected members which is in complete sympathy with their demands for social uplift and education.

The extension of the franchise in India has been a development of very cautious and slow growth. Down to 1919, the primary voter used to be represented in the Indian Legislatures by a very circuitous form of indirect representation. The Act of 1919, however, entirely swept away that system. The general franchise qualifications for the Legislative Assembly since then have been based on: (1) community, (2) residence, and (3) ownership of property of a certain value or above, usually calculated by the payment of land revenue, or income tax, or municipal taxes. Women, unless enfranchised by the Legislature concerned, have no vote. The Legislative Assembly, and the Bombay and the Madras Legislatures have accord-

ingly enfranchised women. The franchise for the Council of State and the Provincial Councils is based on similar qualifications, excepting that for the former the property qualification is much higher, and for the latter, lower, than for the Legislative Assembly. At present, 7,400,000 persons out of a total of 247,000,000 persons have got the franchise.

The number of enfranchised people is thus infinitesimally small, having regard to the population of India. The official argument against broadening the franchise is that the electorate is not properly educated and, therefore, would be at the mercy of the wirepuller. This argument is only a half truth and, therefore, all the more misleading. The Indian elector may not be competent to exercise judgment on questions of high policy, but so far as ordinary local matters are concerned the ordinary Indian villager possesses sufficient amount of intelligence to understand his good. The Indian reformers feel that the process of educating the electorate will be accelerated by freer opportunities given to the masses for the exercise of their political rights and duties, simultaneously with the adoption of an intensive and extensive program of primary and adult education. Such progress as has been made in the matter of primary education has been due to the interest taken in that cause by the much maligned middle classes who met with no inconsiderable opposition from the Government on various pretexts. It would be relevant to draw attention here to the condition of the electorate in England at the time of the Reforms Act of 1832:

Most of the English boroughs were either sold by their patrons, or by themselves, to the highest bidder. In 1793, when the members of the House of Commons numbered 558, no fewer than 354 were nominally returned by less than 15,000 voters, but in

reality, on the nomination of Government and 197 private patrons. (Taswell Langmead's *Constitutional History of England*.) Indian nationalists naturally conclude that it is neither necessary for India to wait for electoral reform till all the masses are properly educated.

PROVINCIAL GOVERNMENTS

The constitution of the Provincial Governments may now be briefly discussed. India is divided into nine major Provinces, the type of government being everywhere the same. At the head of the Executive Government of every Province is a governor. The only permanent Indian Governor till now appointed, has been the late Lord Sinha. The functions of government in the Provinces are divided into two halves, called the "Reserved" and the "Transferred." This division, effected in 1919, is generally known as Dyarchy. Its underlying principle, first accepted by Mr. Montagu, was to give Indians a chance to acquire knowledge of practical administration in certain subjects, which were, therefore, to be placed under their control. The remaining departments were to be reserved to the official half and administered by the Executive Council. Constitutionally, the essential difference between the two classes of subjects is that the Transferred subjects are administered by Ministers appointed by the Governor from the elected members of the Provincial Legislatures, the Ministers being responsible to it, while the Reserved subjects are administered by the members of the Executive Council who are appointed by the Crown and who owe no responsibility to the Legislatures. In practice, there is a considerable amount of influence exercised over the Ministers, by the Governor, in accordance with rules framed under the Act, and also because of his position as

Governor. The Act also intended that the Ministers should be given a chance to influence the opinion of the Executive Council—of which they are not members—while in practice the tendency has been to keep the two halves of Government apart. Dyarchy at first shocked both the political theorist and official opinion in India, though latterly there has come about a change in the official view of it. Indian politicians were sharply divided on the issue at the start, and a large section of them refused to have anything to do with the reforms as being unsatisfactory and insufficient. The Liberals, though dissatisfied with the Reforms, were prepared to work them. Both, however, are agreed now that Dyarchy is unworkable. It does not give a free scope to Indian talent, and is a fruitful source of friction inside the Government. It also makes it impossible to organise political parties on sound lines. The present demand in the Provinces is for the control of the Legislatures over all the subjects of administration, thus making the Executive removable by, and responsible to, the Legislatures.

The number of Members of a Governor's Executive Council varies from two to four from Province to Province, half of them being usually English members of the Indian Civil Service, and half Indians taken from non-official life. The principal subjects administered by the Reserved departments are the assessment, collection and administration of land revenue, laws regarding land tenures, land improvement and agricultural loans, famine relief, law, order and justice, mines, industrial matters, waterways, and sources of Provincial Revenue. The Transferred half, administered by the Governor acting with the Ministers, mainly includes Local Self-Government, that is, matters relating to

municipalities, improvement trusts, district boards, etc., medical administration, public health, sanitation and vital statistics, education excepting European and Anglo-Indian education, public works with certain reservations, agriculture including research institutes, fisheries, coöperative societies, excise, religious and charitable endowments, and the development of industries, including industrial research and technical education.

According to constitutional practice the Ministers ought to be collectively responsible to the Legislature. But actually, this is not so, since often they are not chosen from the same party. Further, it is not always that the Ministers represent the majority party in the Council. Their life is often prolonged by the support of the official bloc, which fact also tends to destroy the cordial and helpful relations between Ministers and their Councils.

The secretariat in the Provinces is, on a smaller scale, the imitation of that in the Central Government. It will be relevant to note at this stage that the subjects of administration in India, as a whole, are divided into Central and Provincial, those of an all India character being assigned to the Government of India, and those of a Provincial character to the Provinces. Rules framed under Section 45A of the *Government of India Act*, technically known as the *Devolution Rules*, define the limits within which the Government of India may interfere with the administration of the Transferred subjects in the Provinces, the financial relations between the Central and the Provincial Governments, and the limits of the financial autonomy of the Provinces. They also provide for the allocation of revenues between the Central and the Provincial Governments, the temporary administration

of Transferred subjects in case of emergency, and so on.

The unit of administration in every Province is the District, divided into a number of subdivisions. The head of a district is generally called a Collector. He combines in himself judicial and executive powers; he is the head of the magistracy and the police; he is responsible for the collection of land revenue, for the maintenance of peace and order, and general supervision. Until recent years, he was the ex-officio president of the municipalities in urban areas, and of the district boards in the rural areas. In rent and revenue matters appeal lies against the judgment of the district officers to Commissioners and then to the High Courts. Above the Collector comes the Commissioner over a group of districts, and above the Commissioner comes the Board of Revenue. Indian opinion has always condemned the combination of judicial and executive functions in the District Collector, though the system still continues.

THE PROVINCIAL LEGISLATURES

The Provincial Legislatures are, on a less grandiose scale, a copy of the Legislative Assembly. The important difference between them is that unlike the Central Legislature, they are unicameral. Their normal term, too, like the Legislative Assembly, is three years and they also have elected presidents. Then, they have an elected majority, as also the official and the nominated blocs. Their powers of legislation are limited in exactly the same manner as those of the Assembly, with the Governor in the place of the Governor General. Their legislative functions are naturally restricted to the subjects assigned to them by the Devolution Rules. A bill passed by a Provincial Council has usually to get the Governor General's assent also, after the Governor gives his. The Legislative Coun-

cils have the right to move non-binding resolutions, and the right of putting questions, just like the Assembly.

In regard to the Reserved subjects the powers of the Legislatures are much narrower than in the case of the Transferred subjects, and even taking the Provincial Legislatures as a whole, they cannot be described as independent bodies acting free from outside control. The Indian Constitution has no resemblance to well-recognised models of federal constitutions. Power is centralised in the Government of India, which again is subject to the superintendence, direction and control, of the Secretary of State. What powers are enjoyed by the Provincial Legislatures are more in the nature of a devolution from the top than anything else.

THE JUDICIARY

India does not possess a Supreme Court for the whole country. There are, however, High Courts functioning in most of the big Provinces, the total number in India being seven. Each High Court consists of a Chief Justice who is a member of the English bar, and a certain number of judges. Of the seven Chief Justices, only one, namely, Sir Shadi Lal, of Lahore, is an Indian. At least one third of the judges of each High Court have statutorily to be recruited from the Indian Civil Service. All judges of the High Courts are appointed by the King, and hold office during His Majesty's pleasure and not during good behaviour as in England. Chief Justices and other judges of the High Courts are paid salaries of Rs 5,000 and Rs 4,000, per mensem, respectively.

Ordinarily the High Courts exercise civil, criminal, probate and testamentary, and matrimonial jurisdiction. The maritime Provinces exercise admiralty jurisdiction also. The High Courts have appellate and revisional

jurisdiction both in civil and criminal matters over subordinate courts. Most of the law in India has been codified, and India possesses exhaustive codes on nearly every branch of civil and criminal law, both substantive and adjective. In the absence of any positive rule of law on any subject, courts are required to follow the rule of equity, justice, and good conscience. Indian lawyers have been appointed judges of High Courts from the earliest times of British rule in India, and their great ability and scholarship, judicial independence and integrity, have been acknowledged on all hands. India has also produced powerful and independent advocates and erudite lawyers. The contribution of some to legal literature has acquired more than Indian fame.

With certain reservations regarding the pecuniary value of the suit, and the nature of the question involved, appeal lies on the civil side, from the High Courts to the Privy Council. The Privy Council is not a court of criminal appeal, but at times it has interfered with criminal cases also.

The trial in civil suits takes place without the aid of a jury, but in certain criminal cases such aid is taken. Till very recently, there existed a very marked racial distinction in criminal procedure between Indians and Europeans, though now it has been modified.

THE PRESENT POSITION AND FUTURE AIMS

The existing constitution of India is still very far removed from anything like responsible government or Dominion Status. Thus, though administratively the control of the Secretary of State has been relaxed in certain matters, even now, in theory, and largely in fact, the Government of India is still in the leading strings of the Secretary of State. What the next step of advance

will be, it is difficult to say. The Simon Commission, which has been appointed to investigate and report on the present situation, consists wholly of British members of Parliament. The exclusion of Indians from it has evoked a storm of criticism all over India, and a considerable section of politicians have decided to hold aloof from the Commission altogether.

Public opinion in India has, at times, loosely spoken of Provincial autonomy as the next possible step in India's political advance. During the last one year, however, opinion has been taking a different shape. The All Parties Conference held in Bombay in May last appointed a committee to frame a draft constitution for India. The report of this committee has been, generally speaking, very well received in India, though not in England. It recommends the establishment of full responsible government as the next immediate step in the political evolution of India, and has adopted the Dominion model, with large residuary power vested in the Central Government. Further, it lays down certain fundamental rights of the people, such as their equality before the law, the possession of equal civic rights by men and women, freedom of conscience and religious practices, the right to elementary education, freedom of association, combination and speech, and so on. It also provides for adult suffrage, particularly because, in its opinion, it affords the best solution of the communal difficulty in India. Side by side with these provisions, there are provisions for the protection of minorities also. This report may be said to mark a definite milestone in Indian politics, and the beginning of a new struggle against forces of conservatism in India and in England, which in the name of statesmanship are bound to resist the demand for the transfer of

political control and power from the people of England to the people of India. The future is uncertain, but Indian nationalism is gaining strength every day. It has acquired a new consciousness and a new self-respect. It is alive to the difficulties that lie ahead, but hopes to face them in a spirit of hope, confidence, and courage.

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The Army and Navy in India

By SIR P. S. SIVASWAMY AIYAR, K.C.S.I.; C.I.E.

Member of the Executive Council, Madras, 1912-17; Advocate-General, 1908-12; President, Recruitment Committee for India Defence Force, 1917

THE subject upon which I have been asked to contribute to the pages of this journal is a very large one to which it is not possible to do even the barest justice within the limits usually allowed to an article. The subject may be dealt with from various points of view. I do not propose to deal with it from the professional and technical points of view, not merely because as a civilian and an outsider I do not feel competent to deal with these aspects, but also for the reason that these aspects are not likely to be of interest to the general public. I will therefore content myself with dealing with the general aspects only of the subject which are likely to appeal to the ordinary reader.

The army of India in the broad sense of the term includes not merely the regular and professional army of British India but the Non-Regular Forces, consisting of an Indian Auxiliary Force, the Indian Territorial Force, the Indian Army Reserve of British India, and also, the Indian State Forces, which are maintained by the various Indian States and placed at the disposal of the Government of India in time of need. The most important portion of the defensive forces in India is that which may be called the Regular Army of British India. This army again consists partly of British troops and partly of Indian troops.

EARLY HISTORY OF THE REGULAR ARMY

The beginnings of the Regular Army of India may be traced back to the year 1662 when a detachment of King's

troops was sent to garrison the island of Bombay. When the island was transferred to the East India Company, the control over the garrison also passed to the Company. After the renewal of the charter of the East India Company in 1798, the three presidencies were formed and each had an army of its own. The army then consisted of Europeans recruited from England or locally enlisted, of half-caste Goanese and of Indian sepoys.

It was in 1748 that the Company made the first appointment of Commander-in-Chief of its forces in India and it was in the same year that, following the example set by the French, the Company raised a small body of sepoys in Madras for the defence of its settlement here. It is not necessary to refer to the course of events which obliged the Company gradually to expand its army side by side with the growth of its territorial acquisitions; nor is it necessary to refer to the numerous changes in the organisation of the Company's army. Till the year 1857 the Indian troops which were organised in companies were under the command of their own Indian officers. When the introduction of a British element in the Indian units was resolved upon by Clive, he decided to retain the Indian command and a higher proportion of Indians to British officers. When the army was reorganised in 1796, the proportion of British officers assigned to the Indian Infantry Battalions was greatly raised and the number of British officers was fixed at 22 per infantry battalion. The power and status of the Indian officers, which had already

been affected by the changes introduced by Clive, were still further reduced by the later reorganisation.

REORGANISATION

The European troops in British India consisted partly of the King's troops and partly of the Company's troops. After the mutiny of 1857, steps were taken to reorganise the army and in accordance with the recommendations of the majority of the Peel Commission, the distinction between the Royal troops and the Company's European troops was abolished as the result of an amalgamation between the two.

The recommendations of the Peel Commission were of a momentous character and laid down several principles which have to this day continued to influence the organisation of the Indian Army and the military policy of the British Government. Before the mutiny, the greater part of the artillery in India was manned by Indian soldiers. After the mutiny, the total strength of the European troops was largely increased and that of the Indian army largely diminished. It was decided that the ratio of Indian to British troops should never greatly exceed two to one and that the field and other artillery should be exclusively or almost exclusively manned by Europeans. They considered the military police to be an element of future danger and would not therefore give them a stricter military training than was required for the maintenance of discipline. The commission further recommended that the Indian section of the army should be composed of different nationalities and castes which should, as a general rule, be mixed promiscuously in each regiment; that Europeans alone should, as far as possible, be employed in the scientific branch of the services and that a Corps

of Pioneers should be formed for the purpose of relieving European Sappers from duties entailing exposure to the climate.

In pursuance of the policy of amalgamation of the European troops of the Company with those of the Crown, the system of linked Battalions was introduced by the Cardwell scheme of 1872. The problem of providing European troops for British India and the colonies, besides the British Army serving at home, was attempted to be solved by this arrangement. The Infantry Regiments of the line were linked together in pairs. Out of each pair of battalions, one was to serve at home and be responsible for supplying men to the other battalions serving abroad. Prior to the mutiny, the total strength of the military establishment in India was 2,77,746 of which 24,363 was the strength of the Royal troops.

Another important commission under the presidency of Sir Ashley Eden was appointed in 1879 for the purpose of exploring the avenues for retrenchment of military expenditure and suggesting measures for improving the efficiency of the army for war. The strength of the three presidency armies in 1879 was 2,00,000 consisting of 65,000 British troops and 1,35,000 Indian troops. The most important recommendations of the commission were the abolition of the presidential system and the placing of all the armies under the direct control of the Commander-in-Chief in India, the linking together of Indian Infantry regiments in groups of two or three battalions, the addition of British officers to Indian Cavalry and Infantry regiments and the reduction of the strength of the Indian section of the army.

PURPOSES FOR MAINTENANCE

The purposes for which the army of India was maintained were defined to

be (1) preventing or repelling invasions actual or threatened from foreign countries, (2) the prevention and suppression of rebellion within British India or its feudatory states and (3) watching and overawing the armies of feudatory Indian states. They pointed out also that the duty of preserving order and of protecting property and quelling disturbances was the primary function of the civil police employed by the civil government. They emphasized the importance of keeping the strength of the forces maintained by the Indian feudatory states within the limits prescribed by the treaties and of not allowing them to be equipped with improved modern armament. Arms of precision were not to be supplied to the troops of Indian States and the British Government should take no steps to employ the contingents of different states together.

As regards the position of the Commander-in-Chief, the commission were in favour of removing him from the Executive Council. Apart from the inability of the Commander-in-Chief to maintain continuous personal contact with the whole army and being in his place in the Executive Council at the same time, the commission pointed out that the existing system was unprecedented in the organisation of any European Government or army and that it was contrary to one of the most essential and salutary principles of sound administration and to the common instinct and experience of all administrations whether representative or despotic. The commission accordingly recommended that the relative positions of the Government of India and the Commander-in-Chief should be the same as those of the Secretary of State for War and the Commander-in-Chief in England. The separate existence of the presidential armies came to an

end in 1895 and they were all brought under the direct control of the Commander-in-Chief. The reorganisation of the army with a view to the improvement of its efficiency has been engaging the attention of the Commander-in-Chief and the Government of India almost continuously since the appointment of Lord Kitchener as Commander-in-Chief in 1902.

POST-WAR CHANGES

In 1912, a committee was appointed under the presidency of Lord Nicholson to consider and report on the numbers and constitution of the army required to meet the military obligations of India. Before the recommendations of this committee could be carried out, the great war broke out and the various defects of organisation which were brought to light by the experience of the war led to the appointment of a committee in 1919 under the presidency of Lord Esher. This committee was asked to report upon the organisation of the army in India, including its relations with the War Office and the India Office and relations of the two offices to one another, upon the position of the Commander-in-Chief in his dual capacity as head of the army and member of the Executive Council, and upon other relevant matters. This committee made many important recommendations and the task of reorganisation was vigorously taken in hand by Lord Rawlinson who was appointed Commander-in-Chief in 1920. Various important changes have since been made in the organisation of the army. The enormous growth of military expenditure involved in the very extensive proposals for reorganisation and reëquipment and the embarrassed condition of Indian finances, led to the appointment of a retrenchment committee, under Lord Inchcape, which recommended con-

siderable reductions in expenditure. At the same time, the committee expressed the opinion that no vital service of the army should be unduly weakened and that it should retain the essential features of the organisation of a modern army and a capacity for expansion in war.

The strength of the army at the present time according to the estimates for the year 1928-29, is for India proper and Burma 231,511 of which 68,000 odd may be roughly taken as representing the strength of the British officers and other ranks and 163,000 as representing the strength of the Indian officers with Viceroy's commissions and other ranks. The total strength of the Fighting Units alone, British and Indian, is 197,000 odd, and the remainder is distributed among the staff of the Ancillary Services, including the Training establishments, Educational establishments, Army Service Corps, Army Ordnance Corps, Medical Service, Veterinary Service, Remount Service, various miscellaneous establishments and the Air Force establishment. The strength of the Reserve sanctioned for the new financial year is 35,750. Of the total number of officers holding King's commissions, that is, 6,998 in the Indian army, the number of Indians holding such commissions on the first of April 1928, will be only 84. The budget estimate of the total of the military expenditure for the new year is Rs. 55,10,00,000 which amounts at the official rate of exchange to 41,000,000 pounds sterling while the total estimated revenue for the next financial year is 97,000,000 pounds odd. The military expenditure of the country is, therefore, a little over 42 per cent of the whole of the central revenues of the country.

FUNCTIONS IN WAR

With reference to the functions of the army in war, it has been divided

into three classes: the covering troops, the field army and the internal security troops. The covering troops are stationed on the North-West Frontier of India and are intended to bear the brunt of the first attack of a hostile force and to secure sufficient time for mobilisation of the troops behind. The field army is the striking force in any major war and is intended to deal primarily with external danger. The Internal Security Troops are primarily intended to deal with internal disorder and maintain the internal security of the country. While, in time of external peace, the field army may be utilized to assist in the maintenance of internal order, it should be released in time of war to carry out its duties in the field without being disturbed by any calls to assist in the preservation of internal order.

One curious feature of the arrangements for these three purposes is that while in the covering forces the ratio of British to Indian troops is one to 6.7 and in the Field army the proportion between the British and the Indian soldiers is one to 2.7, the ratio is very much higher in the internal security troops, the proportion of the British troops to the Indian troops being 1.24 to one. This feature calls for an explanation. The fact that in the Striking forces the British element bears only a proportion of one to 2.7 of the Indian element is explained by a reference to experience in war as to the most efficient proportion of combination. Making allowance for the fact that the British portion of the Internal Security Troops may have to serve the purpose of making good the wastage in the British section of the Field Army during war before further recruits can arrive from England, there can be no doubt that the proportion of the British element in the Internal Security Troops is excessively high and it can only be

ascribed to a policy of distrust of the people.

The control of the army under the Commander-in-Chief has been divided into four commands, the object being to restrict the areas of command for the purpose of securing effective administration. The enormous distances in India and the defects of communications in the interior are among the reasons which have led to the increase in the number of commands to four. Various other considerations are said to be responsible for the arrangement but it is needless to enter into them.

MILITARY POLICY

It has been already pointed out that the policy of distrust, which inspired the recommendations of the Peel Commission in 1859, has continued to inspire the military policy in India down to the present moment. It is part of this policy that Indians should be carefully excluded from the Artillery and all branches of the military service requiring any scientific knowledge. It is part of this policy that Indians should not receive any training which could develop initiative and capacity for leadership. In pursuance of this policy, Indians have till recently been practically excluded from the ranks of King's commissioned officers. It is part of this policy that Indians have been practically excluded hitherto from the Air Force, the Tank Corps, the Indian Signal Corps, the Royal Engineers and the Royal Artillery. Indians are now employed as drivers and artificers in the Royal Horse and Field Artillery and in Medium Batteries and as gunners, drivers and artificers in the Pack Artillery. In the Frontier Garrison Artillery, they are employed as gunners and artificers and in the Indian Coast Artillery as gunners only.

In consequence of the services of the Indian Army during the war, a few

King's Commissions have been granted to Indians since the year 1918. The number of commissions granted every year is ten and they have been confined only to the Cavalry and the Infantry. There are no Indian officers holding King's Commissions in the Head Quarters, in the staff of Commands or in the Ancillary Services, such as Supply and Transport, Veterinary Services, Ordnance, Remounts, Military training and Educational services. It may be mentioned here that there is an inferior class of commissions known as Viceroy's commissions granted to men in the ranks. The highest office under a Viceroy's commission is that of a Subedar-Major or a Risaldar-Major. But these officers, however long their standing, and however meritorious their services, can take rank only below the latest subaltern holding a King's commission.

It was the same policy of distrust that led to the exclusion of Indians from the Volunteer Corps until the exigencies of war suggested the formation of a Territorial Force. This policy of distrust was not confined to the people but to all classes of the Indian Army and the Police and the States. It rested upon the belief that the British rule in India can only be maintained by the sword and by inculcating in the Indian's mind the idea of his permanent racial inferiority to the British soldier and the invincibility of the white races. Various circumstances have occurred to produce a change in the outlook of the Indian and the Englishman alike. The defeat of Russia by Japan, the achievements of the Indian Army in the great war, the growth of a national consciousness among Indians, the declaration of the 20th of August, 1917, by the British Parliament and the discovery of the value of India as a reservoir of military strength have brought about a slight

change in the angle of vision of the British Government. It cannot be said, however, that the change has been considerable or has gone very deep or that the feeling of distrust of the people has disappeared from the British mind.

EFFORTS FOR INDIANISATION

The disabilities under which Indians labour in the army of their own country and their natural aspiration to make their country self-contained in the matter of defence have found repeated expression in and outside the legislatures. When Indians ask for responsible government, they are told that they cannot expect full responsible government until they can defend themselves and when they ask that they should be trained for undertaking the defence of the country, they are denied adequate facilities for the purpose. The whole question was dealt with in a series of resolutions in the Indian Legislative Assembly in 1921, the very first year it came into existence, and though the resolutions were passed with the concurrence of the Government of India, no serious attempt has been made to give effect to any of them.

One of these resolutions pressed for the establishment of a military college in India corresponding to Sandhurst, at which Indians should be trained for all branches of the army. Another resolution recommended that the King Emperor's Indian subjects should be freely admitted to all arms of the military, naval and air forces in India, the Ancillary Services and the Auxiliary Forces, that every encouragement should be given to Indians, including the educated middle classes, subject to prescribed standards of fitness, to enter the commissioned ranks of the army. Another resolution urged the organisation of an adequate Territorial

Force on attractive conditions and the abolition of all invidious distinctions between the Territorial Force to which Indians were admitted and the Auxiliary Force to which Europeans and Eurasians were admitted. It would take too much space to reproduce all the resolutions which were passed on this occasion which summed up the demand of Indians for the Indianisation of the army on lines which recommended themselves to the Government of India as then constituted, and to the Commander-in-Chief.

COMMITTEE RECOMMENDATIONS

A committee was subsequently appointed in 1924 under the presidency of the Adjutant-General, Sir John Shea, to consider the problems connected with the Indian Territorial Force and Auxiliary Forces, and another committee was appointed under the presidency of the Chief of the General Staff, Sir Andrew Skeen, to consider the feasibility of establishing a military college like Sandhurst in India. Both these committees submitted unanimous reports. The recommendations of the Territorial Forces Committee have been substantially accepted in theory, but there is no sign of any intention of giving effect to these resolutions.

The most important recommendations made by this committee were that the University Training Corps should be expanded to the fullest possible limits and that Urban Battalions should be created for the purpose of giving military training to educated Indians on the same conditions as those under which it is given in the Auxiliary Force to Europeans and Eurasians. The existing strength of the University Training Corps and the Territorial Forces is 19,000 odd. The maximum strength of these two forces for which provision is made in the military budget for 1928-29 is only 20,000 and

the margin for increase is less than a thousand. Though there is no room for any doubt that the University Training Corps can be easily doubled and a few complete Urban Battalions can be raised, it is impossible to do so owing to the limitation of the maximum strength to 20,000. On the other hand, the provision made for the Auxiliary Forces contemplates a strength of 36,000 odd of all ranks and an expenditure of Rs. 61,00,000 odd. If there was any bona fide intention of giving effect to the recommendations of the Territorial Forces Committee, provision should have been made for a much larger expenditure than 29 lakhs.

The recommendations of the Sandhurst Committee have been practically rejected by the Government. The Government declared their intention of raising the number of King's commissions granted every year to 37, including a few commissions in the Royal Artillery, the Engineers and the Air Force. The recommendations for annual increments in the number of commissions have been turned down and the Government have refused to establish a military college in India for the training of Indian cadets for the Indian army.

Another recommendation made by the Skeen Committee was that what has been called the Eight Units' Scheme should be abandoned. For the benefit of American readers, it may be stated that the Eight Units' Scheme was condemned by nearly all the witnesses, official and non-official, military and civil, who appeared before the Skeen Committee, and was condemned by the committee itself. This scheme was devised by the military authorities for the purpose of posting Indian cadets who succeeded in obtaining King's commissions to these Specified eight units of Cavalry and Infantry only

and not to any other units. The object of the scheme was to prevent the remotest possibility of any European commissioned officer who may be recruited in future years from serving under an Indian officer. That this was the real object of the scheme has been admitted by the Army Secretary in the debate which recently took place in the Indian Legislative Assembly on a vote of censure on the Government.

At the rate at which King's Commissions are proposed to be granted to Indians in the Indian Army, it will probably take a few centuries before the army can be Indianised or an Indian Officer can rise to a high position of command. It is no wonder that the policy, which has been pursued by the British Government in the matter of the organisation of the army in India, has caused deep discontent and distrust in the minds of the people of India. They are unable to believe that the Government could be sincere in the declarations of their intention to help India to attain responsible government.

INDIAN NAVY

A few words will suffice for the description of the situation with regard to the Indian Navy. It was an oft repeated demand of the Indian people that they should be eligible for admission to the Naval Force. It was announced by Lord Reading in 1926 that the Royal Indian Marine would be converted into a Royal Indian Navy and that commissions would be granted to suitable Indians by competition.

The necessary measures for the creation of the Royal Indian Navy was passed through parliament a short time ago, but, when the bill which was intended to provide for the discipline of the navy, was introduced in the Indian Legislative Assembly, it was

rejected by the Assembly. At first sight, the attitude of the Assembly would seem to require explanation; but the reasons for which the Assembly refused its consent to the measure will satisfy an impartial observer that they are not arbitrary or inconsistent with a due sense of responsibility. The main reasons which influenced the rejection of the measure were that the control of the proposed Navy is intended to be vested not in the Government of India but in the British Government, that the proportion of commissions to which Indians would be eligible is one out of three, that it imposes no statutory obligation for the manning of the ships by Indians and that it enables the Imperial Government to employ the Indian Navy in any part of the world without legally imposing upon it a liability to pay the expenses incurred during the period of such employment. All these objections were pointed out during the passage of the bill in the House of Commons but the Conservative Government was obdurate and made no concessions. If the Indian Legislative Assembly felt that it would prefer not to have a Navy at all to having a Navy on these conditions, could it be said that the Indian Legislature acted unreasonably? There was an Indian Navy in existence in India but it was abolished in the year 1863. Like the famous chapter on snakes in Iceland, the chapter on the Indian Navy will now have to contain only one word "nil."

ATTAINMENT OF IDEAL

The ideal of modern India is to have an army, navy and air force of its own manned and officered by Indians in the same way as the forces of the self-governing Dominions are constituted and under the control of the Government of India. Indians recognise that the attainment of their ideal must take some time, but they contend that an earnest beginning should be made at once and that a definite programme should be framed for Indianising the defensive forces within a reasonable period of time. Of this there is no sign on the part of the British authorities and it is one of the root causes of the distrust of the British Government. Can Indians be blamed if they feel that they are only hewers of wood and drawers of water in the army of their own country, which is maintained entirely at the cost of the Indian taxpayer, and if they resent the treatment accorded to them as dictated solely by racial considerations and a distrust of their loyalty? How can loyalty be ever promoted by a policy of distrust? Self-government within the British Commonwealth is still the ambition of India. But the narrow-minded Imperialism of the British Government is calculated to instil the belief in the minds of Indians that England is not really prepared to satisfy their legitimate natural aspirations to full responsible government within any reasonable distance of time.

Emigration

By SIR DEVAPRASAD SARBADHIKARY, Kt., C.I.E.; C.B.E.; M.A.; B.L.; LL.D.
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(Some time) M.L.A.; M.L.C. (Bengal); Member of Government of India
Deputation to South Africa

THERE is a popular and widespread belief that the stay-at-home Indian, far too attached to his hearth, will never take kindly to colonisation which is the predominating feature of public activities in all live societies and virile communities. This is, however, a baseless imputation.

EARLY HISTORY

The story of colonisation and movement of population found in the Ramayana, Mahabharata and Srimad-Bhagvat may perhaps be relegated to the pre-historic period and thought to contain much fiction with a few facts. There can, however, be no escape from the conclusion that east of India, in Burma, Siam, China, Japan, Java, Sumatra, Bali, Cambodia and southwards in Ceylon, the course of Indian colonisation by Hindu missionaries, Buddhist monks and merchants of both denominations was large, prolonged and unimpeded. Tibet, Tartary and Central Asia were similarly affected. Mr. Kennedy has shown that Indians had settlements in Babylonia, Arabia and the East coast of Africa. Muhammadan colonisation from India towards the East in later days was also a notable feature of movements of populations, and there is more than a remnant of Muhammadan population in some of the islands and settlements mentioned above, whose spoken language is, strangely enough, still Sanskrit, at least one of its dialects. This is a thing not to be noted even in India, the home of the Sanskrit language, which is spoken as a learned

language only by some of her learned men. And in these islands, recently visited by Dr. Robindra Nath Tagore and Professor Suniti Chatterjee, Muhammadans to this day are bearers of Sanskrit and Sanskritised names. I met one such Muhammadan in 1912 in that old seat of learning—Leyden. He spoke good Sanskrit. Remains of noble edifices and monuments in these countries that have engaged the loving interests of scientific researchers like Foucher are abundant testimony of successful Indian colonisation in fairly recent times.

Indian pilots were thus instrumental in piloting western enterprise from the West to the East and assisting the East and West to meet. Why there was a lull in the tide of Indian emigration and colonisation in comparatively recent times has never been well understood. Nor is it clear why, after the successful enterprise of not very ancient times, a ban came to be placed upon Indian emigration and colonisation abroad among Hindus. A noted writer on Indian emigration writing under the pseudo-name of "Emigrant," who is unquestionably well posted in everything relating to emigration in modern times, says:

Why the spirit of adventure, the zeal for conquest, which flung Indian invaders into Ceylon, Java and the remote land of Cambodia, should have suddenly shrivelled under the blight of Muhammadan invasion is a mystery which still awaits solution.

The solution is not of much practical importance to the latter day problem, and it is more than doubtful whether

Muhammadan invasion itself had anything directly to do with this influence of the "paralysing hand of religious anathema that neutralised initiation and courage." Many causes probably combined in limiting the volume, importance, and usefulness of Indian colonisation in the middle ages of India and later; and Bengal, where it had flourished most, suffered most by such shrinkage.

Sea-faring people along Chittagong coasts, who manned and still man merchant vessels and go by the name of *Laskars*, had close contact with the Portuguese and manned their vessels as well as the vessels of rulers like the Maharaja Pratapaditya of Jasehar (not to be confused with modern Jessore) that in time was engulfed by the Sunderbans. Their activities were, however, confined chiefly to navigation, and not to emigration or colonisation. Madras, however, sent strong contingents to Ceylon and the Eastern islands, and later on to Mauritius, South Africa and the Western Islands. Bombay, Gujarat and the southern parts of the western coasts of India sent constant contingents to East Africa and later on to South Africa when the call came. The charge could never be properly and fairly laid at the door of these people that they ever shirked their duties and responsibilities as colonists and colonisers. The charge may well be the other way. Though compared to its vast population and poverty, India's contingents of emigrants and colonists have been infinitesimal, they have never found real hospitality abroad except when they were wanted and encouraged as servants and almost as serfs.

When Indians succeeded in overthrowing age-long prejudices and overcame difficulties, obstacles and handicaps in the way of colonisation, the smallness of their numbers was no passport to cordial relations in the countries

of their sojourn and they were received and tolerated only on sufferance, so long as need of their services made them useful or indispensable.

BACKGROUND OF SENTIMENT AND PRESTIGE

Considerations like these made the mid-ancient legislators all the more averse to promotion and encouragement of emigration. And these considerations in much later time made the British legislators similarly averse, because of the incapacity of the Government fully to protect and promote Indian interests abroad. Stress of public opinion and popular demand made our later Viceroys—Lords Hardinge, Chelmsford, Reading and Irwin take up strong and pronounced attitudes regarding this question, enabling India to maintain "a semblance of self-respect."

Small and almost microscopic as the question is from the point of view of mere numbers, there is a strong background of sentiment and prestige which has made the Indian question of emigration bristle with difficulties. In theory these difficulties are not large. In October 1923, Viscount Peel, Secretary of State for India, and his colleagues put forward a powerful plea at the Imperial Conference for the treatment of Indians, who have settled in various parts of the Empire, on a basis of equality. The people and the Government of India and the Secretary of State for India had always a fair degree of unanimity on this question, and it was not for lack of will on their part that Indian interests had suffered. Mr. Cecil Rhodes himself admitted that "all civilized men should have equal rights;" and Lord Milner held that

When a colored man possesses a certain high grade of civilization, he ought to

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obtain what I may call "white privileges" irrespective of colour.

The Indian question could not long be dealt with directly by the Secretary of State for India, but had to be circuitously dealt with through the Secretary of State for Colonies. Mr. Winston Churchill, as Secretary of State for Colonies said in this connection:

We wish to apply broadly and comprehensively, and so far as is practicable, Mr. Rhodes' principle of equal rights for all civilized men. That means that the natives of India who reach and conform to the well marked European standards should not be denied the fullest exercise and enjoyment of civil and political rights.

As the result of two Government of India delegations to South Africa (of the first of which I had the honour to be a member), a Round Table Conference on the Indian questions was recently held in South Africa. Among other things the South African Government agreed to the supreme necessity of the uplifting of the Indian community there. In the summary of conclusions reached by the Round Table Conference is the following notable admission by the South African Government:

The Union Government firmly believe in and adhere to the principle that it is the duty of every civilized Government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity and opportunities, and accept the view that in the provision of educational and other facilities the considerable number of Indians who remain part of the permanent population should not be allowed to lag behind other sections of the people.

Apart from this notable admission, a still more notable feature of this historic Conference was that, henceforward, negotiations on behalf of India would be between the Govern-

ment of South Africa and the Indian Government directly, and not through the Secretary of State for India and the Secretary of State for the Colonies as heretofore. Thus India has entered upon a new phase of emigration and colonial development. In the Right Hon. Mr. Srinivasa Sastri, India has the first recognised plenipotentiary abroad. A striking personality of great eloquence and experience, he has remarkably impressed the South African people and the South African Government. India is thus on the threshold of coming into her own in this direction, and will do so if her people and her Government will duly persevere.

It is but right that justice, though belated, should ultimately be done. The Marquis of Curzon whose contribution as Viceroy to the demands for recognition of Indian claims was no less notable than that of his successors, in a speech on the subject said:

If you want to rescue the white men's legations from massacre at Peking, and the matter is urgent, you request the Government of India to despatch an expedition, and they despatch it; if you are fighting the Mad Mullah in Somaliland, you soon discover that Indian troops and an Indian General are best qualified for the task, you ask the Government of India to send them; if you desire to defend any of your extreme outposts or coaling stations of the Empire, Aden, Mauritius, Singapore, Hong-Kong, even Tien-tsin or Shan-hai-Kwan, it is to the Indian Army that you turn; if you want to build a railway to Uganda or in the Sudan, you apply for Indian labour. When the late Mr. Rhodes was engaged in developing your recent acquisition of Rhodesia, he came to me for assistance. It is with Indian coolie labour that you exploit the plantations equally of Demarara and Natal; with India-trained officers that you irrigate Egypt and dam the Nile; with Indian forest officers that you tap the re-

sources of Central Africa and Siam; with Indian Surveyors that you explore all the hidden places of the earth.

Referring to some other phases of Indian activities, the Indian deputation to South Africa, of which I was a member, argued before the Joint Select Committee of the Union Parliament as follows:

Since the days of Alexander, the march of events in the great sub-continent has found faithful chroniclers. Its history stretches into a remoter antiquity; their records bear ample testimony to India's civil splendour and military renown. Before the Christian era, Indian colonists penetrated into Java and portions of the Far East: the temples of Borobodur and Nakhon Vat still bear testimony to the impress of their genius on these countries. India gave birth to two of the world's greatest religions, Hinduism and Buddhism. Among her earliest rulers was Asoka, whose temporal power was greater than that of Charlemagne, and whose spiritual fervour firmly established Buddhism in China and Tibet. Among her earliest poets was Kalidasa, whose beautiful lyrical drama "Sakuntala" won the spontaneous homage of Goethe. Schopenhauer eulogized one of her best-known systems of philosophy in the following words:

In the whole world there is no study so elevating as that of the Upanishads. It has been the solace of my life, it will be the solace of my death.

The confluence of philosophic subtlety and mysticism characteristic of early mediaeval Hindu Society, with the artistic energy and political genius of her Muhammadan rulers, further enriched Indian civilization.

Numerous travellers and ambassadors from Europe have written of the magnificence and organization of the

most illustrious Mussulman dynasty that governed India. The fabled peacock throne is a memory of that magnificence; the Ain-i-Akbari, an impartial witness to that organization. We shall not enlarge on either at too great a length. We shall only mention the two most abiding monuments of Moghul influence: the magic mausoleum of the Taj Mahal at Agra, and the system of land revenue organisation, which the British power in India has adopted. When dominion in India passed to the British Crown, the civilisation of her people received recognition in the gracious declaration of Her Majesty, Queen Victoria, that neither their colour nor their creed would be a bar to their advancement.

ADVANCEMENT

That promise, which was re-affirmed by His Late Majesty King Edward VII, and His Majesty King George V., has already been fulfilled in a generous measure, for Indians have been promoted to the British Peerage and His Majesty's Privy Council, have been elected to the British House of Commons, and, with the exception of the Viceroyalty, have held every high office in India. In the world of literature and science they have vindicated their ready adaptability by the completeness with which they have assimilated western culture. In literature and art, Tagore; in science, Roy, Bose and Raman; in oriental scholarship, Bhandarkar and Shibi; in mathematics, Ramanujan; in educational statesmanship, Sir Syed Ahmad; in politics, Gokhale, have worthily upheld India's claim to be included in the world's intellectual aristocracy. In sport, which occupies so important a place in the life of Western nations, the pre-eminence of an Indian Prince, Ranjitsinghji, is universally acknowledged. Her industrial advance has been no less re-

markable. It is submitted, therefore, that by virtue of the antiquity and vitality of their civilization, Indians have established a strong claim to be treated as the equals of any race. Most civilized countries recognize this in their treatment of Indian nationals.

This point of view was accepted by the Union Parliament and later on by the South African people, and on its basis the Right Hon. Mr. Srinivasa Sastri is attempting to place Indian Colonies in South Africa on a better footing than has hitherto been possible.

Space and time will not permit examination of the details of the long drawn struggle conducted chiefly before the return of Mahatma Gandhi from South Africa to India. The Late Mr. Gokhale, Mrs. Sarojini Naidu, and the Rev. Mr. Andrews well championed the Indian cause, and the final work on behalf of the Government of India was in the hands of our Deputation and the Habibulla Deputation, the labours of which have been closed with credit and honour to all parties and with benefit to India.

All this was, however, in the interest and for the benefit of no more than 1,060,000 Indian men, women and children, who in the natural course of things will be wiped out and extinct in but a few generations. The cardinal points of this settlement are that all emigration from India and, therefore, colonisation, must stop for good and that the remnants of the Indian subjects in South Africa shall be repatriated under settled terms and conditions as soon as, and as far as possible.

PRIVILEGES

Here, therefore, is more than incipient finality of the prospects of Indian emigrants abroad on a large scale or on a lasting basis. Though from the

viewpoint of mere numbers the question of Indian emigration is not very large, it is spread over a fairly large and diversified area and includes Ceylon, Malaya, the Straits Settlement, Mauritius, Trinidad, Jamaica, Fizi, British Guiana, Canada, Australia, New Zealand, South Africa, East Africa, Uganda, Nijsahand, Kenya and Rhodesia. To these must be added the mandated territories, which are not integral portions of the British Empire, but which for practical purposes form a part of the problem, in spite of the question of "Trusteeship for the indigenous population" about which one hears when convenience and expediency bring it up. The Indian asks everywhere for full freedom of movement, for complete equality of opportunity, for absolute parity of rights in all Crown colonies and self-governing Dominions. Following the reciprocity resolution of 1918 at the Imperial Conference, I made myself responsible in the Council of State of India in 1925 for what came to be known as the Reciprocity Act after it had been duly passed by the Indian Legislative Assembly. As a condition of faithful observance by India of the reciprocity resolution and not merely as a corollary, India insists on the admission of Indian subjects to the Dominions with the same privileges, political and economic, that are enjoyed by the most favoured classes of His Majesty's subjects.

Within the limited space at my disposal it is not possible, nor necessary, for me to go into the details of the question affecting the various countries, as mentioned above, that are a part of the British Empire, of which Indians are citizens in the same sense as any other races and people. Historically, and on principle, the Indian claim stands on firm ground. Their right to emigrate to any part of the Empire cannot be questioned and has not been questioned

in theory. They have always cherished it as a privilege of imperial citizenship. To deny equality would be to deny justice which is the basic rockbed of Empire. The development of autonomy, which is said to be the goal everywhere in the British Empire, should and may be well compatible with the ideal of equal rights and opportunities for all. The proposal in certain quarters for a separate colony for the surplus population of India is veritably a counsel of despair. Economic objections on behalf of the white settler cannot be urged, for the Empire has vast unpeopled tracts, clamouring for population and development. There can be no distinction between various classes of His Majesty's subjects regarding migration, and the imperial character of the problem cannot be too strongly emphasised. To harmonise different civilisations is an unquestioned objective and a clear need of the Empire, for equality is the key of Imperial Unity.

HISTORICAL DATA

The lull in Indian colonisation to which reference has been made above, strangely enough, came to an end with the abolition of slavery in the British Empire during the ministry of Earl Grey, in August, 1833. A system of seven years' apprenticeship was established as a transitional period of liberty; this was practical slavery for all intents and purposes. Economic depression of the West Indian Colonies followed and became the subject of anxious parliamentary enquiry in 1842 and 1848. The distress was attributed to the difficulty of obtaining labour; and because white hands are averse to hard and continued manual labour in adverse climates, India presented itself as a likely source of new supply of labour. Mauritius used to have labour supplied from India as early as

1819, but the scale became larger in 1834 as a result of the abolition of slavery. Between 1834 and 1837 as many as 7,000 emigrants left Calcutta for Mauritius. In 1838 two ships carrying 400 emigrants left British Guiana. The first consignment of labourers was shipped to Trinidad in 1844. Indian emigrants were introduced into Jamaica in 1845. By 1847 the Colony had received 4,000. Natal got its first supply in 1860. To lesser islands like Granada, St. Lucia and St. Vincent, emigration started in 1856, 1858 and 1861 respectively. Slavery was abolished in the French Colonies in 1848, and the planters in Reunion and other islands began to look to India for labour supplies. A formal agreement with the French Government was negotiated in 1860 when emigration to Reunion, Mauritius, Guadeloupe and its dependencies, and French Guiana was recognised by law. Emigration to the Danish Colony of St. Croix was thrown open in 1863. A convention to regulate emigration to the Dutch Colony of Surinam was negotiated in 1872, and made operative by the Government of India the same year.

EFFECTS OF EMIGRATION

Without going into further and unnecessary details it may be summarised that emigration from India both westward and eastward was a matter of necessity for the development of the resources of the Empire and its allies. The indentured system of overseas emigration and inland emigration served its purpose for a time but soon outlived its usefulness, stood condemned and was ultimately abolished. It is a long drawn tale of misery, woe and shame that has left a dire back-trail. This is only historically important, showing how the economic demands of civilisation in the west made abundant use of India's labour resources,

and how in the end, when the need of such use disappeared, adverse feeling was roused everywhere against Indian labourers and also Indian settlers and merchants, who came in their wake.

It was but natural that trade, and ultimately commerce, would follow the path of labour and that family ties would grow leading to permanent settlement in lands of the emigrants' choice and adoption. From the very nature of things men and women belonging to the lower strata of life would be the first to go and for lack of education and of suitable sanitary and economic ideals would make unfavourable impressions on their surroundings. This, in turn, operated as a recoil on the situation, and attempts have been made to bar the better classes, not coming exactly under the category of labour or trade. So successful has this bar been in South Africa that social workers in sufficient numbers are deplorably lacking for the people's uplift. Priests and preachers are conspicuous by their absence, and when Mr. Srinivas Sastri, himself an eminent educator, began his educational campaign in South Africa, the absence of the right type of teachers was his first difficulty. It stands to reason that if the Indian people are to have their place and take their stand among those who regard them as aliens, the educational level and the sanitary and economic ideals must be commensurate with the surroundings. The members of our Deputation, in 1925-26, insistently urged this point of view on Indians settled in South Africa, and there was considerable response which was followed up when the Habibullah Deputation went there later on. Those who talk lightly of enforced or "persuaded repatriation" of these people forget that they have been away from India for many generations and have

lost all touch with it and its customs, manners and institutions.

FUTURE EQUALITY

Theoretical equality of the races in the Empire has never been overtly denied. Mr. Lloyd George, addressing the Imperial Conference in London in 1921, said:

No greater calamity could overtake the world than any further accentuation of the world's divisions upon the lines of race. The British Empire has done signal service to humanity in bridging those divisions in the past; the loyalty of the King Emperor's Asiatic peoples is the proof. To depart from that policy, to fail in that duty, would not only greatly increase the dangers of international war; it would divide the British Empire against itself. Our foreign policy can never range itself in any sense upon the differences of race and civilisation between East and West. It would be fatal to the Empire.

This is completely different from the Dutch ideal in South Africa that was enshrined in the language of the *Grootwet* of 1883 "that there shall be no equality between the white and the non-white." Since then, there have been the Boer war and the Great European war, in the trenches of which "non-white" troops, particularly Indian, have fought side by side with "white" troops, and have given good account of themselves and have laid down their lives in order that the Empire might live and grow ever greater. The final phase of the Indian question in South Africa destroys the Dutch ideal, for the Union Government has now declared

That they firmly believe in and adhere to the principle that it is the duty of every civilized Government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity.

It has also accepted the view

That in the provisions of educational and other facilities the considerable numbers of Indians who remain part of the population should not be allowed to lag behind other sections of the population.

In Kenya and Tanganyika a definite challenge, however, has been thrown out against the claim of equality of Indians. Opposed to this, the Commonwealth Government of Australia have redeemed their promise to place their domiciled Indian subjects on the same footing, in all respects, with the white population. The Canadian position, on the other hand, is by no means free from difficulties. It is summarised by Professor Rushbrook Williams in his official publication, *India in 1922-23*. He says:

The impending struggle between East and West, foretold by many persons who cannot be classed either as visionaries or as fanatics, may easily be mitigated or even entirely averted if the British Commonwealth of Nations can find a place within its wide compass for three hundred and twenty millions of Asiatics fully enjoying the privileges, and adequately discharging the responsibilities, which at present characterize the inhabitants of Great Britain and the self-governing Dominions.

The numbers involved are infinitely small. There are in Canada fewer than 1,200 people and in Australia there are not more than 900. Why then is there the marked differentiation in the treatment of the same questions in two different countries belonging to the Empire? There may be the fear of foreign complications, for both in Canada and Australia there are settlers from China and Japan who are without votes. But the reply is that the British subjects by birth have a higher footing than an alien seeking to acquire citizenship by domicile. Local hostile opinion, resulting from ignorance and prejudice, should not be allowed to prevail. A

question that affects the unity of the Empire should be above mere party politics. There is no foundation for the fear that confirmation of rights on Asiatics would mean domination by them. In no responsible Indian quarter does such an intention or claim find any place. This has been abundantly proved in India itself where in spite of abundant Indians, alien interests are carefully safeguarded. The theoretical position is absolutely clear. The Indian admits the right of the Dominions to regulate the composition of their population in deference to their autonomy—an autonomy which he hopes to secure for his own country within the orbit of the Empire. In the Crown Colonies he asks for a fair field and no favour.

From the above short sketch it will be clear that the Indian emigration question, as it is known to-day, has large possibilities, but is by no means free from difficulties. The people and the Government of India are determined to have their rights, and they expect the British Government fully to back and support them. After repeated pronouncements by British Statesmen in the foremost rank in the Councils of the Empire, Indian claims cannot be lightly set aside. The Indian Legislature has clearly indicated its attitude in the matter by the Reciprocity Act and the various resolutions carried from time to time in the Legislative Assembly and the Council of State. At the same time, one must recognise that the ethical pre-eminence of the principle of universal brotherhood will not be sufficient to overcome the love of autonomy or the dictates of self-interest. Legitimate expansion of India's colonial and emigration ambitions must be a matter of reason and reasonable compromise, and adequate educational, sanitary, moral and economic standards must be cultivated

and maintained if that expansion is not to receive a check. India has still a high message of spirituality and morality for the super-materialised West and the manner in which the least of her missionaries are still received in Europe and America must be a matter of encouragement, nay, inspiration, to those who want to make India better known abroad. The least, therefore, of those

who go abroad, however humble their station in life and however inadequate their equipments may be, must deem himself an ambassador of the Great Mother in other lands and behave accordingly. By them, by their character and conduct must she necessarily be judged, and whoever causes that judgment to go against her is an arch traitor to his country.

Local Self-Government in India

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IN India from very ancient times there existed the very interesting and important social institution of village communities which have all along attracted the attention and impressed the imagination of the celebrated observers of Indian social structure from Megasthenes in the third century B. C. to Lord Metcalfe a century ago and Sir Henry S. Maine in the mid-Victorian era.

ANCIENT INDIA

The constitution and form of those village communities have not been exempt from the general course of progress and decay; but there can be no doubt that their general characteristics have been handed down through several centuries with an extraordinary pertinacity which is to a very large extent the secret of the persistence of Hindu civilization, which has survived and survived with full force when other equally ancient civilizations in other parts of the world have long disappeared. These communities were based on a marvellous combination of the spiritual as well as the social and the economical forces of the ancient Hindu race, and, as such, contributed more than any other cause to the preservation of the Indian people through all the conquests and revolutions which they have suffered, and were conducive, in a remarkably high degree, not only to their happiness and spirituality, but also to their enjoyment of a great portion of freedom and independence.

The village communities were each a separate little state in which the needs

of the villagers for their individual and corporate lives were well provided for. Village officers used to be appointed for such purposes, and in virtue of caste and heredity they were remunerated by land or fixed fees for their services to the community. They looked after agriculture and arts, public health and sanitation, trade and commerce, as well as education and protection. Minor functionaries like the potter, the barber, and the cobbler used also to be appointed and even the goldsmith and money-lender were not forgotten. The groups of these village communities could also in times of trouble arm and fortify themselves. If the force which opposed them was irresistible, then the people would flee to distant but friendly villages and would return as soon as opportunities occurred. A generation might pass away, but a succeeding generation would return and the sons would take the place of their fathers—on the same site, the same homestead and the same lands. Thus in India from the distant past there was a highly organised system of village self-government, the pertinacity of which was so well described by Lord Metcalfe in 1830:

They seem to last where nothing else lasts. Dynasty after dynasty tumbles down; revolution succeeds revolution; Hindu, Pathan, Mughal, Mahratta, Sikh, English are all masters in turn; but the village communities remain the same.

So far as the bigger towns were concerned, we find it provided in the celebrated code of Manu that every large town should have a superintendent who should personally inspect the work of

all officials and obtain secret information about their behaviour, as the great lawgiver quaintly observes, that

For the servants of the King who are appointed to protect the people generally become knaves who seize the property of others; let him protect his subjects against such men.

In the account of Megasthenes again, we find that the large cities used to have six bodies of five members each and that each of these bodies used to be entrusted with particular and important departments of human activities, amongst which even the care and entertainment of foreigners was included, and the registration of births and deaths was not neglected. Thus it is that in ancient India local self-government, with all its implications, was an important and well-organised institution which had its roots in the very fundamental conditions of life.

THE MUHAMMEDAN SYSTEM

This system of village communities and self-government continued to a great extent during the Muhammedan period for several centuries without any serious modification. In the days of the Moghul Empire local self-government through village communities continued in the rural areas and through their caste and hereditary officers, and in the bigger towns there used to be appointed officers, called the *Koetwals*, who were not only the chief executive officers for all magisterial, police and fiscal matters, but they were also the chief officials for discharging such functions as are now classed as municipal. The great Abul Fazl, in his notable book *Ain-i-Akbari* (or the institutions of Akbar), has handed down to us detailed descriptions of the duties and liabilities of the *Koetwals* which are highly interesting and illuminating from the point of view of

town life and administration of those times. The duties of the *Koetwal* were truly multifarious, severely exacting and frequently unpleasant, and he was expected to be a man of refined address to make his vigilance reflect credit on his administration. He was called upon to see that thieves were discovered and stolen goods recovered from them, or be himself responsible for the loss, and it was also his duty to see that the rich should not take beyond what was necessary for their consumption; the former, an impossible duty in modern days and the latter, a more than hopeless task at all times.

In India local self-government was not vested in a representative body of the people of the locality exactly according to the type of western countries, but it had its authority vested in the local officials, particularly in the towns. In the rural areas the local government was originally by the *Punchayet*, that is, the Board of Five—though the body so called was not always limited to five. They were the heads of superior families with the rules of caste and heredity as the regulating factors. Such was the system which best suited the social, religious and economical concepts of the race, and the people in general were none the less happy in the absence of a western system of popular representation.

THE BRITISH PERIOD

The system of local self-government as it exists now in British India is very largely an exotic institution and for the most part of comparatively recent introduction. The urban and rural areas are not only differently constituted, but they have different names as well. The local self-government boards of the urban areas are called Municipalities, while those of the rural areas are called the District

Boards, and the former have a much earlier origin than the latter. For convenience of treatment the Municipalities may be taken up first.

The Municipal government of the English pattern first came into existence owing to the insistence of Sir Josiah Child, the then Governor of Madras, for the solution of the difficult problem of the conservancy of that town, with the result that in 1687, James II, King of England, conferred on the East India Company, the power of establishing a Corporation and Mayor's court in Madras, by charter. This new civil government was established with the full paraphernalia of a Mayor, aldermen and burgesses, who were empowered to levy taxes for the building of a Guildhall, a jail and a schoolhouse and for other works of public utility and ornament, and for paying the salaries of municipal officers, including a schoolmaster. The Mayor and aldermen were made a Court of Record for trying civil and criminal cases. The ornamental features of municipal life were closely copied from London, and on solemn occasions the Mayor used to have carried before him two silver maces, gilt, not exceeding three feet and a half in length, and he and the aldermen used to ride, robed in scarlet serge gowns, on horses richly furnished with various trimmings.

But, notwithstanding all this pomp and circumstance, the people strenuously opposed the imposition of a direct tax, and so the work of the new corporation could not be undertaken till permission was obtained by the Mayor to levy an octroi duty to provide the funds for street-cleaning. Thereafter, in 1726, was established by a Royal Charter a Mayor's Court, with aldermen but no burgesses, in each of the three Presidency towns of Calcutta, Madras and Bombay, but these courts were intended to ex-

ercise judicial rather than administrative functions.

Long after this, the first statutory enactment of real municipal administration was made in the Charter Act of 1793. This Act was passed by the British Parliament soon after the East India Company accepted political responsibilities in India. By this Act was appointed a Governor-General of India and he was empowered to appoint Justices of the Peace for the Presidency towns, who in addition to their judicial duties were vested with the power to raise funds by assessing the lands and houses in the towns for scavenging, watching, and maintaining the streets.

About half a century later (1850-53) the municipal constitutions of those three Presidency towns were widened and the elective principle was introduced to a very limited extent, but within a very short time, in 1856, a very reactionary policy was resorted to, and municipal functions were concentrated in a body corporate of three nominated and salaried members.

It is interesting to note that since 1793 it had been the practice to raise money for municipal improvements by means of lotteries, the proceeds of which, in Calcutta, used to be made over to the Town Improvement Committee, which was appointed by Lord Wellesly, in 1803. These lotteries yielded a good deal of income, with which many useful public works and services were performed. This method became so very popular that in 1817 a Lottery Committee was framed, which for 20 years carried on works of great utility and improvement, till, public opinion in England having condemned this method of providing funds for municipal purposes, the committee came to an end in 1836. The Town Hall of Calcutta, amongst other great works of public service, was built during those

years with the proceeds of the lottery funds.

It was after the passing of the Councils Act in 1861 that the system of municipal administration was remodelled through the Provincial legislatures which were then called into existence, and henceforth the history of the growth and development of municipal affairs in each of the three Presidency towns is different. Through local legislation, Bombay, Calcutta and Madras, in the years 1872, 1876 and 1878, respectively, obtained for the first time the system of election of representatives by the ratepayers, but it must not be supposed that anything even distantly approaching a full local self-government, was granted to them through those Acts. For nearly half a century after, the policy of the Government has been to keep an unnecessarily stiff control over these municipalities through official chairmen and various other contrivances calculated to deprive them of real popular control. Through various steps, however, some even positively retrograde in character, those three municipalities have eventually obtained more or less developed real self-government. Practical autonomy has been obtained by the corporation of Calcutta (III of 1923) and also by those of Bombay (III of 1888) and Madras, (IV of 1919) though to a somewhat lesser extent.

MUNICIPALITIES IN THE COUNTY TOWNS

Outside the Presidency towns, no attempt at establishing municipalities was made before 1842. Bengal was the first province where this attempt was made by an Act which was far in advance of the times. It was, however, purely of a voluntary character, enforceable on the application of two-thirds of the householders, and the funds provided were to be the proceeds

of a direct taxation. For all these reasons it failed to impress the public mind. It was introduced into only one town, and when the time came for realizing the tax, the whole town not only refused to pay, but actually prosecuted the Collector for Trespass, when he proceeded to levy it.

In 1850, the next attempt was made by an Act for the whole of British India. That was also a permissive Act, but it was more successful, as taxation by indirect methods had been provided. This Act was applied largely in the then North West Provinces and in Bombay but it was very little resorted to in Bengal and Madras, where other methods of municipal efforts were attempted. Thereafter, the report of the Royal Army Sanitary Commission came to be published, in 1863, and urgent attention being shown to the needs of municipal measures in the County areas, (Mofassils) there came to be passed, between 1864 and 1868, Acts for Bengal, Madras, Punjab and North-west Provinces. The Act of 1850, with certain modifications, was accepted in Bombay and the Central Provinces, and Oudh accepted the Punjab Act. In the activity that followed a very large number of municipalities were created, and in many instances zeal overpowered discretion and insignificant rural areas were saddled with municipalities which were subsequently withdrawn. The Acts for Bengal, Northwest Provinces and Punjab made the elective principle permissive, but in almost all places the commissioners were nominated. Though from the point of view of local self-government these Acts did not go very far, yet they were certainly helpful in improving the sanitary conditions of many country towns.

Two important steps taken by the great Viceroys, viz.: Lord Mayo and Lord Ripon, in subsequent years afforded a great encouragement to local

self-government in India. The Resolution of Lord Mayo's Government introduced the system of Provincial finance, which distinctly aimed at affording opportunities for the development of self-government and also for the association of Indians and Europeans in taking a large share in the administration of local affairs. To carry out this beneficent policy new Acts were passed for almost all the Provinces, and it came to be extended to Burma also. The Acts widened the sphere of municipal usefulness and also extended the principle of election. The elective principle, however, could not be successfully introduced into any province except the Central Provinces, owing to objections from the people themselves.

About ten years after, in 1881-82, the Government of Lord Ripon issued orders which had the result of further encouraging the development of local self-government. He took a keen and statesmanlike interest in the matter, as he believed that local self-government was a means of popular and political education. The progress that followed could have been greatly expedited if the bureaucracy, to whose hands the actual organisation had to be entrusted, had been less shortsighted and more statesmanlike. However, Acts were passed in 1883-84 which greatly altered the constitution of the municipal bodies and also added to their power and functions. A wide extension was sought to be given to the elective system, and some towns were allowed to have elected chairmen in the place of the executive officials. There was also a great change made by Lord Ripon by releasing the municipalities from the burden of paying the costs of the town police over which they had no control. In the place of such costs, the municipalities were called upon to support education, medical aid, and local

public works, and at the same time some parts of the Provincial revenues were allocated to local self-government, with proportionate liability. The principles laid down by Lord Ripon for local self-government are still in force through the later Acts (Bombay III of 1901, Bengal III of 1884, Madras V of 1920, Punjab III of 1911, United Provinces II of 1916, Central Provinces II of 1922 and Burma III of 1898), though they have, in the light of past experience and modern municipal methods, made necessary modifications in powers and liabilities of these public bodies.

Space will not permit a detailed examination of the growth of municipal constitution in the different provinces of India. The Municipal government is vested in a body corporate, composed of members who are partly elected from the ratepayers and also partly nominated by the Government. There is a chairman of the municipality under the Acts, and in the advanced provinces he is generally an elected member of the body. The Municipal funds and properties are vested in these bodies. A considerable portion of the work is done in committees.

Elections are ordinarily held every three years, and the rules for elections are framed by the Provincial Governments concerned. Voters are required to have a certain property or status qualification. The elections in bigger bodies are held ordinarily by wards or classes of the community, or both. The enfranchisement of women is rather the exception than the rule, but the desirability of it is being gradually recognised.

The history of Government control over the municipalities is not a very happy one. Though it was the policy of Lord Ripon to substitute outside control for inside interference in municipal matters, still the desire of the

bureaucracy to hold these local bodies perpetually by the apronstring in the name of efficiency had all along been a very marked one. This unfortunate circumstance thwarted the growth of genuine local self-government for about a third of a century after Lord Ripon's time. As it is, this control is generally exercised through the District Magistrate and the Divisional Commissioner. Since the introduction of the Reforms, however, the final control now rests with the minister in charge of local self-government in the various provinces, who is selected from among the elected members of the provincial Legislative Councils. Special control is exercised over finance and important appointments, and the annual budget has to be sanctioned by the Government.

The functions of the Municipalities are gradually increasing, and their duties, which are now comprehensive, may be divided into those that are either obligatory or discretionary, each Municipality being called upon to fulfil such duties as its means will permit. The Acts and by-laws framed under them confer various powers on the municipalities for enforcing sanitary requisitions or preventing adulteration of food, etc. by fines and other penalties.

Though the municipalities in British India have not much increased in numerical strength, they have certainly improved considerably so far as efficiency and constitutional progress are concerned. In 1881 they were 722 in number with a population of 11,000,000, and the percentage of elected members was only 22.5. In 1891 they were 739 with a population of 13,000,000, while the percentage rose to 53. In 1901 the number rose to 742, but the percentage dropped down to 50. In 1921 the number rose to 749 with a population of over 18,000,000 and the percentage rose to 88, while in 1926 the figures were 762, 19,000,000

and 96 per cent respectively. The total income of the municipalities has risen from Rs. 10,000,000 in 1881 to Rs. 27,000,000 in 1902 and to 75,500,000 in 1925. The incidence of taxation has risen from three-fourths of a Rupee to about 8 Rupees per head. As for population, the Presidency towns of Bombay and Calcutta have each a population of over 1,000,000, while that of Madras has only 500,000; but out of the aforesaid 763 municipalities only 24 have a population of over 100,000 each, and 70 only have each a population of 50,000 or over. In this connection it may be mentioned that over 85 per cent of the people of India live in the rural areas.

THE DISTRICT AND LOCAL BOARDS

As has been said before, local self-government in the rural areas was started much later than in the municipalities, and their growth is also much more slow. In Madras and Bombay, semi-voluntary funds for local improvements were the first germ of local self-government in the rural areas of British India. This system did not extend to Bengal and the United Provinces, where there were consultative committees to help the District Collector in the management of the public funds for education, roads and dispensaries. Sindh, of all the places in the country, was the first to raise a local cess for public purposes, in 1865, and Sindh was followed by Madras in the next year. Bombay followed suit in 1869. The proceeds of these cesses were to be administered by committees nominated by the Government and under the tutelage of the District officers, and for a long time to come the application of the elective principle was not thought of, and the interest that the people took in such committees was necessarily most perfunctory.

The financial decentralisation scheme

of Lord Mayo, referred to above, brought about, however, a certain amount of improvement in the administration, and in 1871 were passed Acts for Madras, Bengal, Northwest Provinces, Punjab, while Bombay and Sindh stuck to their previous Acts. In these Acts, passed in 1871, provisions were made for local taxation to help the resources of Provincial finance.

In Bengal, which was a permanently settled province, the passing of this Act (Road Cess Act 1871) was very much resented, as it was considered to be a breach of faith on the part of the Government to empower the local bodies newly created to levy a rate on landed properties. The Act, however, provided that these local bodies might be either nominated or elected by the ratepayers—a privilege which was not conceded to the other provinces in Northern India, with the result that the newly created bodies in those parts took very little interest in the work, which used to be practically carried on by the District officers. For the next ten years or so matters went on thus, till the wise and sympathetic policy of Lord Ripon led to the abolition of those committees and to the establishment of a network of boards all over the country. The principle of securing the interest of the members and also their local knowledge led to the formation of smaller units of administration, which were to be under the control of the District Boards. The District Boards were to be composed of delegates from those local Boards and also of official and non-official members nominated by the Government. The elective principle was partially recognised, and certain items of Provincial revenue, with proportional share of expenditure, were transferred to the Board. Owing to the fact that conditions in various parts of the country were not sufficiently advanced or uniform, a large measure of

discretion was retained by Government in its own hands. Acts of the legislatures were passed in the different provinces during the years 1883-85 to give effect to the policy of Lord Ripon, and that policy is still mainly in force in different parts of the Country, though a certain amount of progress can easily be noticed in the latest legislation of the different provinces on the subject, that is, the introduction of the elective principle and the non-officialisation of the post of the chairman of the Boards, etc.

The Indian Local Self-Government Policy of 1915 contemplates the removal of some of the restrictions on the powers of the Municipal and Rural Area institutions. A detailed examination of the growth and the present condition of the constitution of these bodies in connection with the various Provinces is beyond the scope of a very limited treatise. The local self-government Acts in the provinces are: Bengal III of 1885, Bombay VI of 1923, Madras XIV of 1920, Punjab XX of 1883, United Provinces X of 1922, Central Provinces IV of 1920, and Burma IV of 1921.

The number of Rural Boards of all kinds in 1889 was 970 in a population of 171,000,000; in 1900, it was 1,073 in a population of 193,000,000. Their income was Rs. 26,000,000 in 1889, and Rs. 31,000,000 in 1900. In 1915, the number rose to 1,144 with an income of Rs. 75,000,000; while in 1925, the number was 1,279 with an income of Rs. 121,000,000. The incidence of taxation has risen roughly from one-fifteenth of a Rupee in 1889 to about one-half Rupee in 1925. Though a large percentage of the Boards are yet far from efficient, yet there cannot be any doubt that there are signs of growth and vitality on all sides, but there are considerable difficulties here in the way as well.

There are other kinds of activities in the line of local self-government into the details of which it will not be possible to go. There are the Improvement Trusts of Bombay and Calcutta which have rendered excellent service in improving the sanitation and the general amenities of those cities. Then again, there are the Port and Harbour Trusts in Calcutta, Bombay, Madras, Rangoon and Chittangong. All these have chairmen appointed by Government with a limited amount of representation of municipalities and of Chambers of Commerce on their respective Boards of Management. These Trusts have been empowered to raise funds by loans to meet capital expenditure.

THE DIFFICULTIES

In the Rural Boards as well as in the minor municipalities the chief difficulty has always been the smallness and inelasticity of local revenues and the difficulty of devising further forms of taxation. This is more or less the result of a very low economical condition of the country, where the income per head is nothing above 3d. per head per day and it is a fact that a considerable portion of the people cannot get even one full meal a day. The second important reason is to be found in the fact that there is still prevailing, in the country, a great deal of indifference towards all forms of public life. This is undoubtedly the result of extreme want of education, as only 12 per cent of the males and 2 per cent of the females are literate. Severe poverty and lamentable illiteracy, forming a strong and vicious brotherhood, will have, it is feared, the strength to keep alive that deplorable indifference for yet a long time to come. The third important difficulty that exists consists in the fact that even educated Indians of the better class are often unwilling to submit to the trouble, expense, and incon-

veniences of election. In this connection the most serious difficulty proceeds from the fact that the "higher classes" of Indians, as a whole, have a serious dislike for door to door canvassing, as it is considered to be derogatory to dignity to go about soliciting votes, specially of the "lower classes."

Another important class of difficulty arises from the fact that the sense of responsibility in public affairs has not hitherto been allowed by the policy of the Government to develop in an adequate measure. Undue interference with the executive of the public bodies, and improper leniency in the matters of assessment and realisation of taxes, are glaring instances of this class. To them might be added such other difficulties as arise from the ignorance of the laws of public health and from an absence of the power of making intelligent anticipations of public needs. This unfortunate list, however, cannot be closed without mentioning the most lamentable difficulties that very frequently arise from severe party spirit, communal feeling and even most unjustifiable and protracted litigation over elections. The mischief that is created by these difficulties cannot be too strongly condemned. Recently, again, the result of the growing habit of introducing a strong political feeling into these local bodies has often been to shake those institutions to their very foundations.

SOME SUGGESTED REMEDIES

The Indian Local Self-Government Policy of 1915 has gone somewhat thoroughly into the question and has laid down certain definite directions for the improvement of those bodies. The fault of the British Bureaucracy in always holding the people in leading strings, in the past, has been partly recognised, and directions have been given to withdraw or minimize the old

system of rigorous internal control over these bodies according to their capacities for self-administration. The real remedy will be to extend useful mass education in the land—a duty which the Government has so far faced with lamentable indifference, as will be quite evident from the fact that the Government spends only 5 per cent of its revenues on Education. In that education the rudiments of local self-government in its important features regarding Sanitation, Public Health Coöperation and "Mass sense" should be taught to enable the future citizens to acquire the necessary ideas and conceptions and a few of the principles of Election and Public Life.

Respect for public property and public funds are unfortunately often absent, and strength of private influences and personal considerations in public matters is also often lamentably high. To remedy all these a strict system of public audit and supervision is necessary, though more of education in the fundamentals of civic life is certainly the only effective remedy, particularly against party spirit and communal bitterness. The whole organization must be rebuilt from village unions upwards with more expanded electorates and with gradually decreasing internal con-

trol and interference. There should be given to the local bodies more ample control over their budgets and a genuine power of reappropriation of grants. To the municipalities and the Boards there should be given full powers of levying local taxes for their own purposes. There is always a strong opinion against raising local taxes, but the public mind has got to be gradually educated in this matter. There is no doubt that the crushing poverty of the people as a whole is at the root of this difficulty, and any suggestions of remedial measures in that behalf will be quite out of place here.

Another urgent step necessary is the establishment of Provincial Training Institutions for the entrants in the Local Self Government Departments for previous training, including practical, and the creation of a distinct Provincial Service for them with decent prospects of promotion to executive offices.

In spite of all these difficulties, the present system of local self-government is becoming more and more popular every day, and the institutions are daily attracting the intelligence of the country and the better class of her citizens; there can be no doubt that there is a glorious future before it.

The Internal States of India

By KERALAPUTRA

THE Indian Empire consists of two distinct parts: the area known as British India which is under the direct sovereignty of the British Crown and the protected States which are under Indian Rulers. These latter cover one-third of the total area of India and comprise one-fifth of its population. They vary in size and importance from Kashmir, which is bigger than France and Hyderabad, which has a population of 12,000,000, to little States in Kathiawad consisting of a few acres of land. They are scattered all over, from Kashmir in the extreme north touching Central Asia and the Pamirs to Travancore in the extreme south. Leaving out of consideration such small principalities and jurisdictions, there are in India 108 States whose rulers enjoy a measure of independence in their own government and who are bound to the British Government by treaties of alliance guaranteeing them their authority.

POLITICAL POSITION

The position of *Indian States* is unique. From the point of view of international law, they have no existence, and their peculiar position receives no recognition. So far as the British Empire itself is concerned, the relationship of the States to the Crown is recognised officially to be that of *alliance*; but this alliance is declared to be indissoluble, and the British Government with whom the States are allied have claimed, as we shall see, various rights of paramountcy and suzerainty which have no basis in the original treaties. In fact, though the relations between the British Government and the States are said to be based on

treaties of alliance, there has grown up during the last 100 years a system of political law, resulting mainly from the accumulation of usage and precedent which have to some extent modified the original condition of the treaties.

Even so, the political system which has developed is not based on any legal sanction, for the issues between the States and the Government of India are not decided by courts; nor are the decisions based on statute. It is a system of semi-international law, wherein the Supreme Government, in virtue of the suzerainty claimed for the Crown, decides questions according to the conditions of individual treaties and the general practice that has developed in relation to Indian States.

But it cannot be too strongly emphasised that the Indian States are not parts of British India. It is true that the Rulers acknowledge the suzerainty of the Crown, but their own sovereignty in relation to their subjects is at the present time unchallenged. The British Parliament and the Indian Legislative Assembly cannot legislate for the subjects of Indian States; nor can British Law be extended to the territories of Indian States without express grant of permission from the Rulers. There is no appeal from their Court to any judicial body in India or even to the Privy Council in England. In fact, they are the last and final source of legislation and judicial authority within their territories.

Again, a great many of the Major States have their own coins, postal arrangements, and customs tariff; and at least one State has its own telegraph. They maintain military establishments,

some of them being very considerable. In short, their legal independence is a matter which the British Government fully recognise and accept. The existence of these States gives rise to a twofold problem—first, in relation to their internal government, and, secondly, in relation to the Government and people of British India.

The problem of Indian self-government is rendered infinitely more complicated by their presence, as a definition of their proper relations with the rest of India is an essential condition to the evolution of an Indian polity. This question has come to the front a great deal during the last two years, and the British Cabinet have now appointed an expert Committee to examine and report on the position of Indian States. This Committee, which consists of an experienced Indian administrator, an eminent jurist, Professor Holdsworth of Oxford, and an authority on international finance, has been studying the question in India, especially the economic and political aspect of the relations between British India and the States.

THE EXTERNAL PROBLEM

The present position of Indian States is the result of the accidents of historical growth. When, after the decay of Moghul power in the middle of the eighteenth century, the East Indian Company began to intervene in the political affairs of India they had to solicit the favour of Indian Rulers like the Nizam and the Mahrattas and seek their alliance in order to maintain their position against the French. The Company was not at that time a political power, and the same circumstances which favoured the growth of their power also operated to strengthen and to establish on an independent footing the rule of the local chieftains and viceroys who owed nominal allegiance

to the Moghul. Thus though the majority of bigger Indian States are not survivals of old Indian monarchies, they are not, except in the single case of the State of Benares, the creations of British policy. Without a knowledge of the historical conditions which gave rise to the present position, it is therefore impossible to understand the relations subsisting between the Government of India and the States.

Originally the East India Company, like other European trading companies in India, was interested merely in trade and had no political ambitions. It was only after 1740, when the political genius of Dupliex forced the issue on the east coast, that the English Company turned its attention to political power. From the occasion of its first intervention in Arcot against the French, to the Battle of Buxar and the consequent reduction of the Nawab Vazir, and the acquisition of the Dewani¹ in 1765, the Company stood in relation to Indian States in the position of subordination. From the time the acquisition of the Dewani to the end of Warren Hastings' rule the Company is engaged in a life and death struggle, first with Mysore and then with the Mahrattas with the object of establishing an equality of status with the Indian powers.

This period saw the development of the theory of subordinate alliance, not indeed as a general scheme for India as it became under Wellesley and the Marquis of Hastings, but as a scheme for defending the Company's possessions from external aggression and carrying on offensive warfare if necessary, without any expenditure.

The first of such subsidiary treaties was negotiated with the Nawab Vazir of Oudh in 1765 after the Company's forces had marched into Lucknow. The Company was not in a position

¹ Dewani means the right to collect taxes.

to annex the State, as it would have given the British merchants, whose strength lay on the sea, an extensive land frontier which they would have had to defend against two Powers who were at that time stronger on the land than they were—the Afghans under the Duranee King and the Mahrattas. The result was an alliance by which Shuja-ud-Dowla was restored to the throne and the Company undertook to defend his frontier on the condition that he defrayed the expense of such defence. The Company recognised that the defence of Oudh was the defence of Bengal. *Thus the subsidiary system began as a method of defence without expenditure.*²

During the period between 1765 and 1782, the Company increased in authority and prestige owing to the grant of the Dewani by the Moghul Emperor and the reorganisation of its political administration by the intervention of Parliament. The Regulating Act transformed the Company from a purely trading corporation into a semi-sovereign political body under the control and direction of the Parliament. But except for the reduction of Oudh by successive treaties to the position of absolute dependence, the relation of the major Indian powers to the Company remained unchanged.

When Lord Cornwallis succeeded to the Governor Generalship, the Company was fully content with the position of equality attained under Hastings. The main States at that time in India were the Mahrattas, the Nizam, the Nawab of Arcot and the Sultan of Mysore. They maintained relations of a friendly character with the Mahrattas who ruled the whole of Hindustan excepting the Punjab and Bengal. With the Nizam their relations were more cordial. Even at the

Court of the Nawab of Arcot their position was not one of superiority, while with Mysore their relations were merely correct but hardly friendly.

The campaign against Mysore, consequent upon Tipu's attack on Travancore, united the Company, the Nizam and the Mahrattas, in what was called a triple alliance; but this alliance was only of a temporary nature meant for a specific and agreed purpose and dissoluble at the will of any of the parties. The treaty with the Nawab of Arcot underwent, however, a significant change. By the treaty of 1787 the Company bound itself to maintain the *whole military force required* for the protection of the Carnatic in consideration of which the Nawab was prohibited from entering into any political negotiations or correspondence.

CHANGE IN AUTHORITY

The relative position of the States *vis à vis* the Company continued to be the same until the arrival of the Earl of Mornington, later on, the Marquis of Wellesley. But among themselves their power and authority had undergone considerable change. The Nizam was reduced to impotence after the fatal field of Kurdla in 1795, where his army capitulated to the Mahrattas under Parusuram Bhau Pattavardhan. In the Mahratta Empire itself, the death of Mahdajee Scindia had altered the balance of power. The central authority of the Peshwa had weakened. Mysore remained under Tipu, but that redoubtable Sultan's power was very greatly reduced. Scindia alone remained a power of first class military importance in Hindustan and the forces of Holkar held Central India.

It is the masterful personality of Wellesley who transformed the position of the Company from that of one among a number of rival Indian States

² Letter to Colonel Champion. Gleig's *Life of Hastings*, i-443.

to one of paramountcy. A new treaty was negotiated with the Nizam by which he was rendered a subsidiary ally of the Company. This treaty was unlike the former agreements negotiated between the Nizam and the Company at least in three important matters:

1. It was indissoluble. After the signature of this treaty the Nizam was not free to pick and choose his friends. The State, came to be in "permanent alliance" with the British.
2. There was a British Army officered by Europeans but paid for by the Nizam established in his territory. This force was for the purpose of internal as well as external defence and it gave to the Company a handle wherewith to influence the internal affairs of the State.
3. The treaty stipulated that the foreign relations of the Nizam should be conducted exclusively through the Company.

These three characteristics were, as we have pointed out, developed slowly during the 55 years of relations with Oudh and Arcot. The subsidiary system did not come suddenly into existence with all its characteristics fully developed. With the increasing power of the East India Company, new restrictive clauses were introduced to the original stipulation of a subsidiary force to be paid for by the Ruler. It is in the Hyderabad Treaty that we meet with all these clauses in their fully developed form.

The Hyderabad Treaty may, therefore, be said to be the subsidiary treaty *par excellence*, and the consequences that followed from the special characteristics noted above may, therefore, be analysed.

First, it may be said here, that the East India Company did not in any way conceal their object in negotiating

the Hyderabad treaty. "The fundamental principle of His Excellency the Governor General's policy in establishing the subsidiary alliance is to place the States in such a degree of dependence on the British power as may deprive them of the means of prosecuting any measure hazardous to the security of the British Empire."³

The permanent and indissoluble character of the alliance made the Ruler a subordinate and unequal. Though the Nizam realised that in allowing the Mahrattas to be crushed, he was sealing his own doom, the treaty gave him no loophole as his own forces were under the effective command of the British Resident. The permanent nature of the alliance also tended to give the executive decisions of the British Government the force of finality, as there was no method of settlement by arbitration or otherwise of questions on which there was divergence of opinion.

The second feature, the establishment of a "subsidised force" within the territory of the Ruler, is even more pregnant with disastrous consequences for the State. A subsidised force meant an army kept within the allied State by the British Government for the expenses of which a subsidy was given by the protected Ruler.

It was usually postulated that the subsidy (which formed generally about one third of the revenues of the State) should be paid annually. The Company's Government knew well enough that so heavy a demand on the States' revenues could not easily be met with any regularity especially in India, where revenues shrink or expand according to the monsoon. The result was, as the Duke of Wellington foresaw, that the States fell into arrears. This gave the Company opportunity to annex the most valuable portions of the

³ Despatch of the Government of India to the Resident at Hyderabad, 4th Feb. 1804.

territory of its allies. The principle on which the commutation of subsidy was generally negotiated is put in the following words by the Marquis of Wellesley himself in a Despatch to the Secret Committee of the Board of Directors. In advising the Court of Directors to follow the Hyderabad precedent in the Oudh negotiations, Wellesley stated:

In commutation of 40 lakhs a country rated at the annual value of 62 lakhs of rupees was taken away in full sovereignty in the Nizam's case.⁴

The pay and allowances of the Nizam's contingent officered by Britishers but paid for by the Hyderabad State were many times more than what prevailed in the Company's forces or in the British Army. The Commandant was paid £5,000 a year, and the other officers were paid in proportion.⁵ The object of this contingent was thus explained in a moment of candour by the Government of India:

When for our private views that prince was constrained to support a body of our troops to be stationed near his capital the then Government disguised the interested oppressiveness by the sturdy declaration that His Highness had spontaneously sought the aid of a subsidiary force to secure his person and territories.⁶

The subsidiary force besides dislocating the finances and demoralising the administration also gave the Company the pretext for internal interference. Wellesley enunciated this principle in relation to Oudh. As the Nawab's

authority is upheld by the terror of our name and exercised by the immediate force of our arms,

and as the Nawab himself is

sustained exclusively by his connection with the Company's Government and the reputation and honour of the British nation,⁷

the Governor General claimed that the right to interfere in any matter whatsoever rested with the Company. This principle in the form that Wellesley enunciated was capable of application to every case of a subsidiary alliance.

The third characteristic was the stipulation that the State in subsidiary alliance should have no foreign relations. It was only in 1787 that this clause was introduced in the treaty with the Nawab of Arcot. But with no other State had the Company so far insisted upon this restriction. In the treaty with the Nizam, Wellesley introduced it as an essential feature of subsidiary alliance, because his policy from the beginning was to isolate the Mahrattas and make any alliance between the Deccan powers impossible.

Though with the Hyderabad Treaty the subsidiary alliance in all its essential features came into existence and all the problems of internal intervention, restriction of sovereign powers, forced appointment of dewan and control of succession began to agitate Anglo-Indian statesmen even at the beginning of the century, it should not be thought that a political system embracing the whole of India was brought into being at the time. The treaty with Scindia in 1804 left him a sovereign power whose independence was acknowledged. The treaty with Holkar was also not of the kind which reduced him to the position of a subordinate ally. In 1809 Lord Minto refused to enter into an alliance with Bhopal. By the agreements negotiated by Minto after the departure of Wellesley and the death of Cornwallis, who was sent out to replace him, the commitments in

⁴ Wellesley's *Despatches*, p. 205.

⁵ Kaye's *Life of Matcalfe*, Vol. II, p. 15.

⁶ *Bengal Political Letter*, 20 Dec. 1822 (Government of India to Matcalfe).

⁷ Wellesley's *Despatches*, p. 209.

Central India were reduced and the subsidiary alliances of the Company even dissolved in some cases.

There are two considerations with regard to the relations of the Company with the Indian powers at this time to which attention should be called.

1. All the treaties, except that with Mysore, are negotiated on a basis of equality. The Company did not claim any paramountcy or authority, and the treaties themselves clearly show that at least in the case of those States which were not conquered there was a spirit of reciprocity. As the great Mahratta powers and the Nizam were in the enjoyment of absolute internal and external sovereignty, the reciprocity established with them was not merely a verbal formality or something to soothe wounded susceptibilities, but a historical fact.

Each of these treaties guarantees in a most absolute manner the absolute authority of the Ruler over his own subjects and most unequivocally repudiates any claim to intervene in the affairs of the State. That the clause so laid down was not merely a friendly profession may be seen from the fact that Wellesley recognised its baneful influence and, where he had the chance as in Mysore, tried to remedy it in the treaty itself.

Recollecting the inconveniences and embarrassments which have arisen to the parties concerned under the double Governments and conflicting authorities unfortunately established in Oudh, Carnatic and Tanjore, I resolved to reserve for the Company the most extensive and indisputable rights of interposition in the internal affairs of Mysore.⁸

If, after realising the baneful influence of this system of guaranteeing absolute authority, Wellesley and his successors were forced to insert a clause of this

kind uniformly in all treaties, it is clear it could not have been done as an act of mere formality.

A NEW PERIOD

With the Marquis of Hastings a new period opens in the relations of Indian States with the Government of India. By the destruction of Mahratta power in 1818, the Company was left supreme in Hindustan (excepting the Punjab), and from that time up to the assumption of sovereignty by the Crown in 1858, the position of the States underwent a slow but imperceptible change. In 1818 Scindia was still an independent power. Holkar had not been fully absorbed into the subsidiary system. Sir John Malcolm in 1822 had declared that

with Scindia we have only general relations of amity and we can claim no right of interference in any part of his administration.⁹

When Dowlat Rao Scindia was lying seriously ill in 1826, the Government of India ostentatiously denied that they had anything whatever to do with the succession in the State or with its internal administration. The position was similar in Indore.

The British Government hereby declares that it has no manner of concern with any of the Maharaja's children, relatives, dependents or subjects or servants with respect to whom the Maharaja is absolute.¹⁰

But a new political system was coming into existence, side by side with this. A new group of States had come into existence mainly in Central India (excepting Gwalior, Indore and Bhopal) and in Kathiawad, over whom the Government of India claimed complete authority. The alliance with the states in Rajputana concluded after the defeat of the Mahrattas was the basis of "subordinate coöperation."

⁸ Despatch to the Court of Directors, Aug. 3, 1799.

⁹ *Central India* Vol. II. P. 452.

¹⁰ Article X of the Treaty of Mandsaur.

In fact, the agreements made after 1818, with the single exception of Kashmir, due to geographical and political considerations at the time, were of such a character as to reserve for the Company full powers of authority and control.

The policy of the Company during the period was neither uniform nor consistent. It treated the major Rulers as Independent Sovereigns. In the case of the minor rulers it tried a policy of feudalisation with incidental claims of escheat, wardship, etc. But the policy of the Company, except in States like Oudh, Hyderabad and Mysore, where a different tradition had grown up, was not based on intervention but on annexation.

The Court of Directors in 1841 enunciated the policy of "abandoning no just and honourable assession of territory or revenue." This instruction was faithfully followed by the Marquis of Dalhousie with the results that Oudh, Satara, Nagpur, Tanjore and numerous other States were annexed and became part of the territories of the Company. It was only when the disastrous results of the creed of grab were written in letters of blood during the Mutiny that the authorities came to realise its failure. After the mutiny annexation on any pretext ceased to be a part of British policy towards Indian States.

The position before 1858 was acknowledged officially to be that of friendly and non-interfering alliance with the more important States.

In the Act that transferred India from the Company to the Crown, it was specially declared that the treaties made by the Company were binding on the British Crown. Queen Victoria's proclamation also announced the same fact. The transference of the Company's possessions to the Crown could not, it is obvious, make the least difference in the legal theory of the position

of the States and the British power. And yet in 1861, almost immediately after the Mutiny was put down, mainly owing to the loyal exertions of the Princes, the claim was put forward that the independent allies of yesterday had all of a sudden become transformed into dependent chiefs, liable to be punished, deposed and dishonoured according to the wishes of the Government of India. A claim of paramountcy, not only as a historical fact but as a legal principle capable of interpretation and expansion, was introduced. Lord Canning expressed the principle thus in his address to the Princes of Rajputana:

The last vestiges of the royal house of Delhi from which, for our own convenience, we had long been content to accept a vicarious authority, have been swept away. The last pretender to the representation of the Peishwa has disappeared. The Crown of England stands forward the unquestioned ruler and paramount power in all India and is for the first time brought face to face with its feudatories. There is a reality in the suzerainty of the sovereign of England which has never existed before and which is not only felt but eagerly acknowledged by the chiefs.

This theory of suzerainty on the one hand and feudal subordination on the other which was put forward as a uniform principle in relation to all the States for the first time was further expanded, annotated and underlined by Lord Mayo. In his speech to the Princes assembled at Ajmere, Lord Mayo said as follows:

If we respect your rights and privileges you should also respect the rights and regard the privileges of those who are placed beneath your care. If we support you in your power, we expect in return good government. We demand that everywhere throughout the length and breadth of Rajputana, justice and order shall prevail; that every man's property shall be secure; that the traveller shall come and go in

safety; that the cultivator shall enjoy the fruits of his labour; and the trader the produce of his commerce; that you shall make roads and undertake the construction of those works of irrigation which will improve the condition of the people and swell the revenues of your States; that you shall encourage education and provide for the relief of the sick.

The principle enunciated by Lord Mayo in this speech was in complete violation of the clear and unequivocal declaration in most of the treaties that "the British Government shall have no manner of concern whatsoever" with the administration of the States and that in internal government the Rulers "shall be absolute," etc. The claim put forward that the Government of India had the right to look after the welfare of the people and that in giving up the policy of annexation, they had introduced in its stead the policy of considering all of them uniformly dependent on the British Government and owing allegiance alike, with the co-relative right of interference in Scindia's territory as much as in that of a minor Kathiawad State was capable of infinite expansion. And it was *in order to establish this uniform loyalty that the Sanad of 1861 was granted allowing adoption in all the States.*

That Sanad created by mere declaration the duty of loyalty to the British Government, and it will be noticed that whenever any Indian Prince has put forward claims to be treated on the basis of the original agreement, the duty imposed by the acceptance of the Sanad of 1861 is brought forward as an argument. The latest example of this was in the case of Hyderabad, when the claim of the Nizam to a different position was met with by the declaration of Lord Reading, textually approved by the Secretary of State, that the Ruler of Hyderabad had along with other Princes *accepted* the Sanad of

1861. The relationship of the States was practically made uniform in the matter of loyalty and allegiance by that Sanad.

The inconsistency of the position of the rights of independence established by treaty and the loyalty and allegiance established by the Sanad and the constitutional position taken up afterwards was noticed by Lord Mayo. Writing to a Cabinet Minister in England he said:

Our relations with our Native Feudatory States are on the whole satisfactory, though they are by no means defined. We act on the principle of non-interference, but we must constantly interpose. We allow them to keep armies for the defence of their States, but we cannot permit them to go to war. We encourage them to establish Courts of Justice, but we cannot hear of their trying Europeans. We recognise them as separate Sovereigns, but we daily issue to them orders which are implicitly obeyed. We depose them, as in the Tonk case, when the ruler commits or sanctions a grievous crime; or create an administration for them, as in the Alwar case, when the Chief misgoverns and worries his subjects. With some we place political agents, with others we do not; with some as with Jaipur, Bhopal and Patiala, we are on terms of intimacy and friendship. Others such as Dholpur and Alwar, we scarcely ever address except to find fault with them for some gross neglect of duty.¹¹

ECONOMIC CHANGE

It will be seen from this that within the first ten years after the Mutiny, the States had been transformed from foreign territory which they were technically and legally into areas under the indirect government of the Governor General in Council. Before the Mutiny the princes stood in fear of annexation; now that fear had vanished. But with it also had vanished the idea of guaranteed independence and au-

¹¹ Hunter's *Life of Mayo*. Vol. II, pp. 207-10.

ton my. A new fear, that of constant worrying and vexatious intervention replaced the fear of annexation.

If some territory was required either for strategic or for commercial purposes, the East India Company before the Mutiny, simply proceeded to annex it or in some other manner to get full control of it. In his Minutes, dated 28th February, 1856, Lord Dalhousie had declared as a justification for his taking over Berar from the Nizam as follows:

In the possession of Berar and the neighbouring districts, the British Government, it deserves to be remembered, has secured the finest cotton tracts which are known to exist in all the continent of India; and thus has opened up a great additional channel of supply; through which to make good a felt deficiency in the staple of one great branch of its manufacturing industry.

The same Governor General had frankly noted:

I take occasion of recording my strong and deliberate opinion that in the exercise of a wise and sound policy, the British Government is bound not to put aside or neglect such rightful opportunities of acquiring territory or revenue as may from time to time present themselves.¹²

This policy of adding to the territories of the Company was given up, but instead the Company *began to treat for the purposes of its economic and other development the areas ruled by the Princes as being dominions over which they could exercise rights*. The policy with regard to railway construction, telegraph lines, currency, etc., will establish this point. In the Sanads given to Jind and Patiala after the Mutiny, it was laid down that the Raja will furnish at current rates through the agency of his own officers, the necessary materials, railway stations, roads and bridges. In the Mysore agreement of 1881, the Govern-

ment of India stipulated that the Maharaja should grant such land as may be required for the construction of railways and transfer full jurisdiction within such lands. The policy pursued on this matter is best illustrated in the case of Patiala:

Upon a full review of the case the Government of India have come to the conclusion that for Imperial reasons which apply throughout India and which are of the utmost importance for the administration of the whole system of Indian Railways, it is necessary that the Patiala Durbar should comply with the wishes of the Government in the matter as the majority of the Native States have already done in India.

His Honour must, therefore, ask the Patiala Durbar now to carry out the request and return duly signed two copies of the agreement forwarded with this office letter No. 5 dated, 24th July, 1899, in respect of each of the Railways mentioned in that letter.¹³

DEVELOPMENT IN ECONOMIC LIFE

The policy of the Government of India since the Mutiny was directed to the steady consolidation of economic interests. The period following the Mutiny saw an extraordinary development in the economic life of India. The extension of railways, the sudden demand for Indian cotton owing to the stoppage of supplies from America during the Civil War and the consequent rise of Bombay as a leading industrial and commercial centre, the growth of modern banking, posts and telegraphs, etc., led to a steady and irresistible movement towards economic unification. The States which lay within the operation of these currents were naturally caught up. They surrendered or were forced to surrender their economic independence.

The Government of India, which before the Mutiny would have uncere-

¹² Arnold, *Dalhousie's Indian Administration*. II-119.

¹³ Chief Secretary Government of Punjab's letter No. 417, dated 5th April, 1900.

moniously annexed the States on a frankly economic plea, was now satisfied with making the States surrender their economic privileges, that is, permit the construction of railway; with attendant cession of jurisdiction, establish British-Indian post offices and currency, telegraph and telephone system.

The policy of forcing the States into a single economic system was carried further in the matter of salt and customs. The States with a sea board were forced against their wishes to accept British customs rates and those which had no sea board and were surrounded by British territory were altogether denied the revenue from customs. Because Maharaja Ranbir Singh of Kashmir, whose territories bordered on Russian and Chinese Turkistan, levied duty on goods that passed through the State, the Punjab Government threatened to intervene, in 1865, though at that time the Jammu and Kashmir State enjoyed complete independence. In the matter of salt, also, the Government of India pursued a consistent policy of acquiring, at the expense of the States, a monopoly in production.

The cumulative result of all this was that in the nineteen years between the Mutiny and the first Delhi Durbar the position of the States had been seriously affected both in political rights and in economic independence. In political rights, the Government of India had put forward and exercised the claim to depose and try Rulers of States (Gaekwar and the Nawab of Tonk), interfere forcibly in internal affairs (Alwar, Datia, Jodhpur, etc.), settle precedence, salutes, etc. (Datia), grant titles and orders of chivalry (at the Durbar). In fact, a theory of semifeudalistic relations was consciously developed by the Government of India, though this was in every way in direct conflict with

known and notorious historical facts.

The economic subordination was equally serious and was pursued with equal consistency and vigour. The Government of India took every opportunity afforded to them either by the minority or temporary embarrassments of rulers to force them into the economic life of British India. This process continued with such disastrous effects on the general prosperity of the population of the States that they came to be considered backward areas, without realising that their backwardness was due to the policy of economic aggression followed by the Government of India.

The position became so serious that in blind defiance of all history, authoritative quarters began to enunciate the theory that the rights of Indian Princes were not inherent but merely derivative. "The sovereignty of the Crown is everywhere unchallenged: it has itself laid down the limitations of its own prerogative," said Lord Curzon. If this were so, then the Government of India would be justified in making any claim it chooses. It was clearly on the tacit assumption of this theory that the agreements and conventions were forced upon Indian States in the interests of British and Indian trade. This theory continued, at least, till the Minto-Morley Reforms when the whole question of British relations with the Princes was reconsidered in view of the rising nationalist movement in British India.

It was during the Viceroyalty of Lord Hardinge that the results of this changed attitude became visible. The treaty with Mysore, which had placed that important State in a position of inferiority compared to other principalities, was revised. During the European War Lord Hardinge freely consulted the Princes on all matters, and their steadfast loyalty to the British

connection and the very valuable help, military and financial, which they were able to give proved once again the paramount necessity of maintaining them in their authority and guaranteeing them against the encroachments of the British Indian Government. In the Reforms that were introduced into Indian Government after the war, the position of the Princes was sympathetically considered. Two important results followed from this. The Government of India withdrew the ban which they had so far maintained against joint consultation among Princes and agreed to the establishment of a standing Committee of Princes whose main duty was to watch the interests of the States in matters of wider political or economic interest. A Chamber of Princes was also established with the object of advising the Viceroy on questions affecting the Princes as a whole.

These two institutions, the Standing Committee and the Chamber of Princes have helped to change the attitude of the Government of India on the external aspect of the problem. It is not contended now as it was in the days of Lord Curzon that the powers and prerogatives of Indian Rulers are merely derivative and that the ultimate source of all authority even in the States is the British Crown. That theory has been definitely given up. The Princes of India are recognised to be internally sovereign, and it is now accepted that they are presumed to be in the enjoyment of all powers which have been either by treaty or by long usage surrendered to the British Crown. The acceptance of this principle naturally involves a reconsideration of many questions, economic and political which were decided in the past by the Government of India on an unauthorised assumption of legal rights. The undoubted tendency in the external prob-

lem of Indian States has been for the Government of India to surrender and the States to resume much of the authority which during the period between the Mutiny and the régime of Lord Curzon had been taken away from them. It is in order to put that resumption on a systematic and legal basis that the Butler Committee, of which mention was made before, was appointed by the British Government.

There is another, and no less important, aspect of the external problem of Indian States. And that is the relation of the States with the people of British India. Indian States are all of them internal States. They are, except in the case of Kashmir, surrounded on all sides by British territory. Their people are bound by innumerable ties with the people of British India. Economically and politically they are, in fact, part and parcel of the same country. Hence the political and economic development of British India affect the Indian States closely: for example, the imposition of Customs duty at British Indian ports operates as indirect taxation of Indian States. Hence, it is clear, that with development of democratic political institutions in India the relations of the Princes—with whomever their alliance may be—will become more and more intimate with the people of British India. The position that the Princes have taken up on the question of Indian self-government is clear and unequivocal. They have not hesitated to express their sympathy with the demand of the British Indian people for autonomy. But they have made it equally clear that the devolution of powers from the British Government to a representative assembly of British India would not and could not mean the transference to it of the political control over the States now exercised by the Viceroy. The treaty relations of the Princes of India

are with the Crown. At the present time the Viceroy combines both the functions; that of the representative of the Crown in relation to the Princes, and that of the chief administrative officer of British India. The point of view of the Princes is that if by Parliamentary legislation the chief executive authority of British India is made subordinate to a representative assembly, it would not in any way affect their position *vis-à-vis* the Crown. Apart from this the Princes have as a body expressed their willingness to come to any reasonable agreement on economic and political questions affecting them jointly with British India.

INTERNAL

The relations of the States with British India form but one aspect of a most complicated problem. An equally important though less agitating aspect of the question is that of internal government. The problem can be stated this way. What are the responsibilities of the Rulers to their subjects? What sanctions are to be provided in order to see that the States are progressively and wisely administered; and arising out of the above two, is the question, what are the rights of intervention which the Government of India as representing the Crown possess?

It is clear that as the States are maintained (at the present time) by the military power of the Government of India, and the States have, generally speaking, surrendered the right of external defence and in many cases of internal defence, there is on the part of the suzerain power a duty to see that its protection is not abused; that under the shadow of its guns and under the cover of its protection the Ruler does not oppress his subjects or permit in his State institutions which are subversive of order (that is organised robbery) or

recognised to be barbarous (that is, infanticide). In case of the breakdown of administration, financial bankruptcy or criminal misuse of sovereign powers the claim of the suzerain State to intervene is undoubted. But what is the amount of oppression that would justify intervention? Can the Government of India intervene merely on the constructive necessity of affording better government? There is again the question whether the subjects of Indian Rulers owe any allegiance to the British Government?

These problems have always been in the background of the picture. When the British Government deposed a Ruler the claim put forward was generally that it had a duty towards the people of the State. The whole question of intervention in internal affairs turned on the degree of responsibility which the British Government felt towards the subjects of the States. The connection between the external and internal aspects of the problem has dawned upon the Indian Princes only recently. Their claim had been that being sovereigns in their own States no oppression or misgovernment would justify intervention on the part of the suzerain power. This attitude has undergone considerable change of late. As His Highness the Maharaja of Kashmir said in a recent speech:

We realize that treaties and engagements alone cannot secure our position. Authority must ultimately be derived from within. The strength and stability of our position depends more on the support that we receive from within the State and the subjects we govern, than on any external institutions that may be devised to safeguard our position. We have inherited from our forefathers the duty and responsibility of securing the welfare and progress of our people. We live with them, we share with them their joys and sorrows; we are the protectors of their rights and interests.

The best and the most effective guarantee

of our position, therefore, lies in their well-being and prosperity. At the same time it is necessary that our relations with the British Government and the Empire of which we form a part, should be put on a satisfactory basis. I join my brother Princes in sincerely hoping that the work of the Committee will result in a great step in this direction. It is for the first time that the affairs of the Princes and States are being subjected to careful examination by an able and impartial body. I can only express the hope that the outcome of the deliberations and recommendations of the Committee will tend further to strengthen the ties which bind the Princes of India to the British Empire and will inaugurate a definite and enduring policy of sympathy and trust in all matters affecting the Indian States.

That this tendency is a genuine movement towards constitutional Reform in the States may be seen from the following resolution proposed on behalf of the Standing Committee of Princes by His Highness the Maharaja of Patiala, a representative of the Princes held at Bombay and unanimously accepted:

The meeting of the Rulers and representatives of State Governments affirms the intention of the Indian States to join with His Majesty's Government and with the Government and people of British India in working for a solution which shall secure protection for all interests and progress for all India, re-affirms the abiding determination of the Rulers of Indian States, as recorded in the last session of the Chamber of Princes, to ensure the rule of law in their States and to promote the welfare and good government of their subjects.

Emphasises the dependence of the progress and prosperity of British India and the States alike upon the creation of constitutional means for the adjustment of relations between them.

It is also known that the Princes accepted a scheme of constitutional reform for the States, the main features

of which were thus summarised by a leading Ruler.

(1) A proper apportionment of revenue between the Ruler and the Administration, which in India means that the Prince, as the father of his people, assigns to the well-being of the body politic a very large share of his revenue, retaining to himself only as much as will suffice to maintain his exalted position—a conception fundamentally different from the Western idea of a King, who receives a small portion of what primarily belongs to the people.

(2) The security of the State services, each servant of the State being assured, both by practice and by virtue of regulation enforced, that he will be secure in his position so long as he properly performs his duties; secure also from undue interference either from the Ruler, or from other departments of the Administration, and that he will be entitled to a decent pension on his retirement, as a reward for the proper performance of his duties.

(3) The security of person and property, so that each subject may feel that as long as he respects the law, he will be continued in the fullest enjoyment of his personal liberty, of his right of ownership, and of the fruits of his labours; which postulate.

- (a) A sound system of law, whether legislative or customary;
- (b) the maintenance of an efficient and incorruptible police, with adequate military force in the background;
- (c) An independent judiciary, every judge occupying a high social status, with necessary qualifications and in receipt of a salary large enough to place him above temptation and consequent corruption, and assured of his being irremovable from his position until he has earned his pension, except

for misconduct, which must be established at a trial by a competent body composed of his colleagues and other members of the administration, of an equal or higher position.

In many of the larger States these principles have long been enforced both by legislation and by practice. In fact the record of progressive administration in Mysore, Travancore, Cochin, Baroda, Gwalior, Hyderabad and Kashmir, which between them cover over 230,000 square miles, will bear comparison with British India. In education, social legislation and economic activity, the Governments of the progressive Indian States are far ahead of British India. Mysore, Travancore, Cochin and Baroda have the highest percentage of literacy in India. In economic and industrial matters, Mysore, Gwalior and Kashmir Governments are active in the interests of their population. So far as social legislation is concerned, the Rulers of Indian States have been able to achieve more than the Government of British India. The practice of child marriage has been abolished by legislation in Baroda, Kashmir and Mandi. The matriarchal system which was prevalent in Travancore and Cochin was abolished by the legislatures of the State. In fact, it cannot be denied that the majority of Indian States—and certainly the most important of them—have followed a consistent policy of progressive and enlightened administration.

In this, if nowhere else, lies their justification. The internal States consti-

tute Indian India where the people, as well as the Rulers, have been attempting to reform themselves and build up a higher national life out of their own efforts.

The position that the States should occupy in a general scheme of Indian political settlement is perfectly well understood by all the parties concerned, though none of them have so far attempted to define it. The policy which would abolish them as inconvenient encumbrances in the way of progress is clearly impracticable because if for no other reason than that the people of British India have not the necessary force at their command. Neither is it conceivable that these 120 States should remain independent of the rest of India with full liberty to fly at each others' throats and split up the country by numerous fiscal and political barriers. It is accepted on all hands that the only solution lies in devising a polity which would guarantee the Princes the rights which are theirs by treaty and securing them the measure of independence consistent with the safety and tranquillity of India. The Princes have whole-heartedly accepted this view and have always declared themselves willing to work any scheme which, while guaranteeing them their legitimate rights, would secure the evolution of a united India. To such a polity of autonomous States federated together under a Central Government responsible for common defence and external policy, the Indian States ruled by their own sovereigns and developing lines best suited to their traditions will have a great deal to contribute.

Communications—Railways

By D. Y. ANDERSON, M.A.

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AS it is not possible to publish a map of India with this article, the reader is advised to examine the atlas, since, as with other countries, it has been the geography of India which has determined the layout of its railroad communications.

ORIGINS

To the west of the Peninsula lies the Indian Ocean, the only trade route which in the nineteenth century connected India with the Western Hemisphere, and the direct approach from Europe through the gateway of India—Bombay. The importance of Karachi as a harbour is of recent growth, and in the middle of the nineteenth century Bombay had no rival on the Western coast. On the East there is the Bay of Bengal, at its head the city and port of Calcutta, on the River Hooghli. The Hooghli connects with the two great rivers, Ganges and Brahmaputra, and thus Calcutta was in touch with the fertile plains of Bengal, and the rich agricultural districts of Behar and Assam. South from Calcutta, half way down the coast, is the city of Madras, capital of the great province of that name, and the harbour for the Southern part of India.

To the North conditions are very different; here we have no seas, but enormous masses of almost impenetrable mountain, beyond which lie strange lands—Tibet, Nepal, China, Russia. The past history of India consisted to a very great extent of invasions through the passes of these mountains, particularly in the Northwest, where lived the warlike border

tribes, always ready to attack the rich plains of the Punjab. Beyond the border were the fierce Afghans; and beyond them again the shadow of the Russian menace.

The geography of a country determines its trade routes and also its liability to attack; and these conditions in turn determine the system and direction of its communications. So, as was to be expected, we find that the Indian railway map has been influenced by three necessities—first, to connect with the shipping at the great harbours of Bombay, Calcutta and Madras; second, to transport and distribute the produce grown in the great stretch of plain along the course of the River Ganges; and third, to meet the danger of invasion in the Northwest. Hence, the railway system connects the three ports with each other, and with the Northwest; hence, too, the concentration of lines in the North, to the comparative exclusion of the South. The fertile belt stretches from the tea gardens of Assam, through the jute and rice fields of Bengal, the grains of Behar and Oudh, the wheat of Agra and the Punjab, and so on to the strategical area of the Northwest and to the borders of Afghanistan. Thus we find a great network of lines stretching from Calcutta to Peshawar; the main lines connecting Calcutta, Madras and Bombay, and comparatively little else.

The development of this system has taken nearly ninety years, the first proposals for the construction of railways in India having been made to the East India Company in 1844 by R. M.

Stephenson, who was later to become Chief Engineer of the great East Indian Railway. In 1849 the East Indian Railway entered into a contract for the construction of an experimental line, 100 miles in length, to run from Calcutta in a westerly direction towards Mirzapore. The estimated cost was one million pounds, and the East India Company (not to be confused with the East Indian Railway) agreed to guarantee a return of 5 per cent on this capital. In the same year a similar contract was made with the Great Indian Peninsula Railway for a line between Bombay and Kalyan, and this line, or its first 22 miles from Bombay to Thana, was the first railway to be opened in India, the date of opening being the 18th of August, 1853. In 1854 this construction reached Kalyan; Vasind—50 miles from Bombay—in 1855; and by 1870 the Great Indian Peninsula Railway had been carried to Jubbulpore, 617 miles from Bombay, and the point where a connection was made with the East Indian Railway from Calcutta.

The East Indian Railway was opened on the 15th of August, 1854, the line being from Calcutta to Hooghly, and the distance 23 miles. This reached Raneegunge, in the coal district, in 1855, and was completed through to Ghaziabad (941 miles) by 1871, the route touching such important places as Dinapore, Mirzapore, Allahabad, and Cawnpore.

In the South, two miles of line were opened in Madras (city) in July, 1856, this short section being the nucleus of what is now the Madras and Southern Mahratta Railway.

The gauge adopted for the track in all these early lines was 5 ft. 6 in.—now known as the Standard Gauge, which accounts for over half of the total mileage in India. Only less important is the metre gauge system (3 ft.

3 $\frac{3}{8}$ in.) which began with a line from Delhi to Rewari (51 miles), now part of the Bombay Baroda & Central India Railway. This was opened in February, 1873; and in 1875 some parts of the South Indian Railway, in Madras, which had originally been standard gauge, were converted to metre. By March, 1927, the total route mileage—that is, distance from terminus to terminus excluding multiple track and sidings—was 19,367 miles standard gauge, 15,932 miles metre gauge, and 3,750 miles narrow gauge (*i.e.*, 2 ft. or 2 ft. 6 in.).

It may seem strange that such a variety of gauges should have been permitted, and in fact much criticism has been levelled at those who were responsible, the chief argument being that a break of gauge means additional handling, and so materially increases the cost of transportation. Actually the arrangement has been a boon to the country, as it has permitted the opening up of districts which otherwise would have remained without communications, roads being almost unknown. The standard gauge has been found suitable for the long main routes in India, but naturally construction on this gauge is an expensive undertaking. The cheaper cost of the metre gauge has enabled it to work successfully where the financial results of a standard gauge line would have been at best doubtful, and narrow gauge lines again have opened up trade in places where even the metre gauge could not profitably penetrate. The narrow gauge lines, with their necessarily restricted speeds, are unsuited to long distances, and have been built solely as feeder lines, or as mountain railways; but the metre gauge has developed in such a manner that its total mileage is now little short of the standard gauge total, and freight can travel entirely over the metre gauge from the northern limits

of Assam across India to the coasts of the Bombay Presidency.

DEVELOPMENT

We have seen that railroads began in the 1850's; by 1860 there were 838 miles of line open in India, the capital expended being Rs. 266,600,000, or approximately \$88,000,000. (Before the Great War the rupee was worth approximately 33 cents; it has recently been fixed at 1sh. 6d., or about 37 cents). The following table shows how the railways have grown from their birth to the end of March, 1927:

Year	Miles Opened	Capital Cost in 1000's
1850-1860....	838	Rs. 26. 66. 00
1861-1870....	3,933	63. 34. 50
1871-1880....	4,225	38. 56. 41
1881-1890....	7,408	85. 10. 13
1891-1900....	8,348	1. 15. 86. 30
1901-1910....	7,347	1. 09. 51. 39
1911-1920....	4,636	1. 27. 33. 04
1921-1927....	2,314	2. 22. 28. 89
Total.....	39,049	7. 88. 66. 66

The period 1891-1900 was that in which construction was carried on with the greatest energy; the table also shows the effect of the Great War, both on development and on prices.

It has already been stated that, of the total of 39,049 route miles, 19,367 miles were standard gauge, 15,932 metre gauge, and 3,750 miles narrow gauge. During the year 1926-27, 421 miles were opened for public traffic; and at the end of March, 1927 (the latest date for which official figures are as yet available), 2,551 miles were under construction.

In addition to the lines owned and worked by the Government of India and by companies, there were 5,044 miles owned by Indian States, of which these States themselves operate

3,153 miles, the remainder being controlled by the neighbouring main line administrations. There is also a small miscellaneous mileage (271 miles) consisting principally of District Board lines.

OWNERSHIP AND MANAGEMENT

We have seen that the original lines were constructed at the expense of companies, and that a fixed dividend was guaranteed by the East India Company—in other words, by what is now the Government of India. This policy was adopted in 1854 on the recommendation of Lord Dalhousie, who argued that, though the State engineers could make the railways as well and as cheaply as the companies could, the withdrawal of so many men from the State service would be against the public interest. He also held that it was not the business of the State to conduct commercial undertakings. Thus between 1854 and 1860, contracts were made between the East India Company (or after 1858, the Secretary of State for India) with the East Indian, Great Indian Peninsula, Madras, Bombay Borada & Central India, Eastern Bengal, and other railway companies; under which contracts the companies undertook to construct and operate specified lines, while the State undertook to supply the necessary land, and guaranteed interest on the capital cost at rates varying from 4.5 to 5 per cent.

Should the profits exceed the amount required to pay the guaranteed interest, half of the surplus was to be paid to the Government in recoupment of any sums which the Government may have had to pay to the companies in the past. The Government also retained control over all matters of importance except the selection of the personnel; and the railways were to be held by the

companies on 99-year leases, provision being made to enable the Government to buy them out after 25 or 50 years, on specified terms.

This principle of guaranteed companies continued till 1862, when the Government began an attempt to secure more favourable conditions—an experiment, the failure of which was summed up by Sir John Lawrence in 1869 thus:

The Government of India has for several years been striving to induce capitalists to undertake the construction of Railways in India at their own risk . . . with a minimum of Government interference. But the attempt has entirely failed, and it has become obvious that no capital can be obtained for such undertakings otherwise than under a guarantee of interest fully equal to that which the Government would have to pay if it borrowed directly on its own account.

The previous methods were therefore altered, at this time, in two important particulars: first, it was agreed with some of the original guaranteed companies that half of the surplus profits should be paid to the Government in *every* half year, the Government in return giving up the right to purchase at the end of the first 25 years; and second, the Government decided that the time had come when capital expenditure on railways might conveniently be incurred directly by the State. Thus by the end of 1879 there were in India 6,128 miles of line built by companies at a cost of £97,872,000, and 2,175 miles built by the State at a cost of £23,695,226.

The next step came as the result of the great famine of 1878, which demonstrated that the railway mileage of the country was far short of its requirements. To help make good this deficiency, six new companies were formed between 1881 and 1887—three guaranteed, and three without guar-

antee; another guaranteed company was subsequently formed in 1892, and yet another in 1897.

In dealing with the original guaranteed companies, and with those formed after 1880, it has been the practice of the Government to terminate the contracts as soon as this could be done, the method of termination differing in different cases. Certain lines were purchased, and thereafter operated by the State: some were acquired, but were left under the management of companies; others again continued under their original management on conditions which were made more favourable to the State.

The relations between the State and the guaranteed companies today are roughly as follows: The lines themselves, and the bulk of the capital, belong to the Government. If funds are required, the Government may either provide them or order the company to do so. There is a guaranteed rate of interest, and surplus profits are divided between the Government and the company—the former taking the lion's share. Contracts are terminable at the option of the Government, and, on termination, the capital is repayable at par. The company must operate the line to the satisfaction of the Government, which maintains a service of inspecting officer to ensure that this is done. The Government retains considerable control over the details of working; a Government official is to have a seat on the Board of Directors; and all expenditure must be sanctioned by the State. In short, the Government has the preponderating financial interest in the guaranteed lines; it has great control over their operation; and it can take possession of them at specified times and on specified terms.

There are two considerable metre gauge lines not guaranteed by the State—the Bengal and Northwestern

and the Rohilkhand and Kumaon, which are to all intents and purposes one system. They also are subject to Government inspection, and may be purchased by the Government, on terms which should be very favourable to the companies, in the year 1932; or, failing this, in 1981, on terms much more favourable to the State.

NATIONALISATION

Thus the position came to be that the railways of India, whether guaranteed or not, were worked under contracts which meant that sooner or later they could be taken over by the State; and when the time for a decision approached, the question was, What was the State going to do? Were the old arrangements to be extended, or were the lines to be nationalised?

Nationalisation of railways, nationalisation of shipping, nationalisation of mines—these are problems which have given rise to endless discussion all the world over. In France, railways were nationalised—the results were bad; in Canada railways were nationalised—the results were disastrous. It would therefore appear that nationalisation was to be avoided. But, on the other hand, there were railways in India which had been owned and operated by the State for many years and which had not been entirely unsuccessful financially. The Northwestern had been variable—some years there was a loss, some years a profit. From 1886 to 1902 inclusive, there was a regular annual loss to the State; from 1903 to 1927 there was an average annual gain of roughly Rs. 1,800,000. But the Northwestern was to a considerable extent a strategic line, and as such was not expected to be profitable. The Eastern Bengal, from 1888 to 1927, has been a gain to the State in all but seven years.

On the Oudh and Rohilkhand, the

State had a profit in all but three years, from 1910 to 1925. There were thus arguments on both sides, and in order to decide the question, the Secretary of State for India, at the end of 1920, appointed a Committee (known from its Chairman as the Acworth Committee) to report on this and other matters affecting the Indian railroads. The Committee consisted of the President, Sir William Acworth, who had already sat on a similar commission in Canada; Sir Henry Burt, an ex-President of the Indian Railway Board; Sir R. N. Mookerjee, senior partner in the firm of Martin and Co., Managing Agents for several Light Railway Companies; Sir A. R. Anderson, another Ex-President of the Railway Board; Sir George Godfrey, Agent of the Bengal Nagpur Railway; the Hon. Mr. Sastri, Member of the Council of State; Mr. E. H. Hiley, General Manager of the New Zealand Government Railways; Sir Henry Ledgard of Cawnpore, representing European commercial interests; Mr. Purshotamdas Thakurdas of Bombay, representing Indian commercial interests; and Mr. Tuke, a Director of Barclays Bank, Ltd.

These details are mentioned to show that the Committee consisted of two groups, one of men with experience of railways, and the other of men without such experience. On the subject of the future management of railways in India, the Committee was equally divided; the President (who in Canada had recommended *Company* management), three non-railway members, and Mr. Hiley, recommended direct State management; the four railway members and Sir H. Ledgard recommended a continuance of the guaranteed companies. The result has been that the Government has definitely accepted a policy of nationalisation, and accordingly, in 1925, the East Indian and Great Indian Penin-

sula systems, whose leases fell in, were taken over by the State, and are now operated as State lines.

It is only two years since the East Indian Railway and Great Indian Peninsula Railway were taken over by the State, and it is, therefore, too early to say what the result has been; the figures do not cover a long enough period to be of great value, and cannot be put forward as an argument either for or against company management. All we can do is to hope for the best. Where State management has failed in the past it has been due to political interference; before 1925 the Indian lines escaped this interference; but the Montague-Chelmsford Reforms have brought politics so much into the lime-light, and have made them so popular, that there is now a much greater danger to be feared from the theories and practises of parties and politicians.

Reference has been made to "District Board" Railways; these are in general short feeder lines, built and operated on the guarantee-and-share-of-profits principle, the guarantor being a District Board, or what corresponds roughly to the County Council in Britain.

THE ACWORTH REPORT

The terms of reference of the Acworth Committee were (1) to make recommendations as to the method of management; (2) to examine the functions of the Railway Board, and the control exercised by the Government of India; (3) to consider arrangements for the financing of railways in India, and in particular the feasibility of the greater utilisation of private enterprise and capital in new constructions; (4) to report on the Government control of railway charges, and on the method of dealing with disputes between railways and traders; and (5) to make recommendations germane to the enquiry.

The Committee's report on the method of management has already been dealt with. As regards the Railway Board, which is the controlling authority for all the railways, the Committee suggested considerable alterations; a Department of Communications should be created, and at the head of this there should be a Member of Council in constant touch with railway matters—an experienced administrator, but not necessarily a technical expert. The Railway Board should be a technical body under the Member, with a Chief Commissioner, four Commissioners, and six Directors. Actually we now have a Member (of Council) for Railways, and a Railway Board which consists of a Chief Commissioner (ranking as a Secretary to the Government), a Member for Finance, a technical Member, and a general Member. The Board is assisted by five Directors, for Civil Engineering, Mechanical Engineering, Traffic, Establishment and Finance; and is thus the direct controlling authority over 15,000 miles of State-owned and operated line; it represents the predominant partner in other systems totally over 27,000 miles; it is the guarantor of many of the smaller railways; and it is the statutory authority over all railways in India.

As regards finance, the Acworth Committee carried out a much needed reform in recommending that the Finance Department of the Government should cease to control the internal finance of the railways; and that the railways should have a separate budget of their own, to be presented to the Legislative Assembly, not by the Finance Member of Council, but by the Member in charge of Railways. This has meant that the earnings from the railways are no longer merged in the general exchequer of the Government, but are definitely allocated to

railway purposes. The railways now know how they stand financially, and are no longer in the very unsatisfactory position of having to depend upon the state of the general budget for their expenditure.

The Committee also laid stress "on the importance of giving to the Indian public an adequate voice in the management of their railways;" and to secure this end, there are now a number of Advisory Councils. There is a Central Advisory Council which meets in Delhi or in Simla four times a year: this Council has 26 members including the Member in charge of the Railway Department as Chairman, and the Chief Commissioner; and it discusses matters of general railway interest. There are also a number of Local Advisory Councils, which meet once a month at the local headquarters of the various railway systems. These local councils meet under the chairmanship of the Agent of the railway concerned, the members being representative of the local Government, local bodies, and local business interests. These discuss matters of local interest such as alterations in the train schedules, reduction in charges, construction of new lines, and so on. There were 92 such meetings, held at various centres, during the year 1926-27, and there can be no doubt that these friendly discussions between the railway authorities and the public have been of great service.

The Government has also set up a Rates Advisory Committee which came into existence on the first of April, 1926. It consists of a president and two members—one representing the railways and the other the traders—and their work is to investigate complaints made by the public regarding undue preference (or discrimination), unreasonable rates, unreasonable conditions as to packing, etc., failure

to provide reasonable facilities, and so forth.

A Standing Finance Committee has also been created. When it was decided in 1924 that the railway finances should be kept separate from the general finances of the country, it was arranged to appoint a Standing Finance Committee for railways, consisting of a nominated chairman and eleven members elected by the members of the Legislative Assembly from amongst their own number. This Committee has to study all the important estimates of railway expenditure; and must examine all the demands for grants for the ensuing year before these are placed before the Assembly for sanction.

ORGANISATION

The organisation of the Government controlling authorities has been described—the Member, the Board, and the Standing Finance Committee. We now come to the organisation of the individual railway systems, each of which has as its chief administrative official, a General Manager, or, as he is usually called, an Agent. Until recently the actual executive work of the railways was on the departmental plan, according to which there were a number of heads of departments all under the control of the Agent—a Chief Engineer responsible for the construction and maintenance of the permanent way and buildings; a Chief Mechanical Engineer in charge of locomotives, carriages, wagons and workshops; a Traffic Manager to control the running of trains and the booking, transportation and delivery of freight and passengers; a Chief Auditor of Accounts; and a Chief Storekeeper. Each of these, except the last two, had under him various district officers and assistants. But this departmental system has now

been abolished on the larger railways and has been replaced by the divisional system under which the supervising staff is organised on a geographical basis. At the top, still under the control of the Agent, there is now a Chief Operating Superintendent who carries the entire administrative responsibility for the movement of all kinds of traffic, including the supply of vehicles and power, and for coördinating these with the upkeep of the track. The responsibility for executive work of the same description rests with a number of Divisional Superintendents each in charge of a particular part or section of the complete line.

RAILWAY CONFERENCE ASSOCIATION

In addition to the machinery set up by the Government for the general control of railways, the railways themselves have arranged a code of procedure for the regulation of inter-system business, such as the interchange of vehicles, the method of dealing with through traffic, the adjustment of claims as between railways, the issue of free passes, and so on. The Association is made up of the officers of the various railways, and has a permanent secretary. Once a year there is a full meeting of the Association, attended by senior officials from almost all lines; for the remainder of the year the work is carried on from the Secretary's office by correspondence with the officials, each line having a certain number of votes in accordance with its importance. There are also several Conference Committees which meet at odd times to discuss departmental topics. One of these is the Claims Arbitration Committee which settles disputed questions of responsibility for claims, and thus saves the companies from having to go to the law courts when they are unable to agree. The Association issues a num-

ber of publications of which the chief are the Conference Regulations for the interchange of through traffic; and the Goods and Coaching Tariffs containing the conditions and rates for the carriage of all kinds of traffic.

CONCLUSION

There are, roughly, three hundred million people in India, and to meet the transportation requirements of this huge population there are, as we have seen, some 40,000 miles of railroad—7,500 people per route mile. It is clear, therefore, that we have a long way to go before it can be said that the country is adequately supplied with railroad communications.

There are few who would venture to predict either the nature or the extent of railroad development in India during the coming years. The country itself is at present to a very great degree in the melting pot; it cannot be denied that the Montagu-Chelmsford Reforms have not been an unqualified success. They were admittedly an experiment whose working many people think has not been allowed a fair trial. The Simon Commission, appointed to report upon the working of the Reforms, has paid its preliminary visit to India, where it met with a very mixed reception. Opinion appears to have become somewhat more moderate, but the Committee has still to complete its enquiries, and it will be many days before its report is submitted. Prophecy is impossible, and the future system of the Government in India is still very much on the knees of the Gods: and obviously the form of government must have a very strong influence on railroad development.

India, for all the centuries of her great history, is still a child; millions of her people are illiterate; great stretches of her territory are undeveloped, or only partly developed; the

number of completely different languages spoken within her borders runs well into three figures: in addition to Christianity, there are the two great religions, Hinduism and Muhomedanism, which are still hostile to each other—often intensely antagonistic; and there are a hundred other problems calling for, and equally difficult of, solution.

What are the problems that face the railroads? First of all, nationalisation: for good or ill, the present policy is for the State to assume control—a policy which many experienced railroad men look upon with great misgiving. It remains to be seen whether the policy will succeed, and whether it will be adhered to.

Then there is the question of Indianisation. Everyone is anxious to let the Indian have his opportunity, and to train him to govern his own country and to manage his own business. This is an ambition which must be constantly sustained and encouraged, and which eventually must be realised; but we must be careful not to run before we can walk, and the danger lies in the selection of Indians, simply because they are Indians, and without sufficient regard to qualifications. Efficiency may thus be sacrificed to nationalism.

Technically, our chief problem at present is the problem of all railroads

throughout the world—the competition from road transport. In common with other countries, we have so far failed to discover a means of meeting this rivalry, and it is doubtful if a means can be discovered so long as the road transport companies continue to enjoy the advantage of escaping local taxation. England is imposing a petrol tax: let us hope India will follow suit.

“Transportation is Civilisation.” Indian railroads depend to a very great extent upon their third-class passenger traffic, which in the past has been content with what was supplied—speed was of small account; if you miss a train today you will get one tomorrow; and after all comfort is a relative term. But now there are the motors, and the illiterate cultivator is learning to appreciate speed. The railroads will have to meet this challenge; services will have to be speeded up, and accommodation made more attractive. There is ample room for all forms of transport, and all that is needed is control at the top, and good will throughout.

The standard of civilisation in India is low in comparison with that in countries such as America and England; our railroads have certainly made a brave show against the more elaborate arrangements of the Occident. We may have far to go, but we are going there with a sure faith and a high heart.

Indian Mercantile Marine

By SETH NAROTTAM MORARJEE

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THE United States of America, which stand today in the forefront of countries bent upon developing an adequate national Mercantile Marine, rightly present a model to other nations striving to be free from the control of foreign shipping rings in the interests of their industrial and commercial growth. External pressure exerted in the interests of British shipping was responsible for that revolt of the early English Colonies, which as a result grew into the United States as we know them today. It may be recalled that among the first acts of the new Republic within a few years of its birth, the American Legislature passed an Act, in 1789, which resulted in the exclusion of Non-American shipping from the Coastal Trade of America, and which was definitely reserved to ships flying the American Flag in 1817.

As a result of the immense strides in the commercial and industrial progress that America has taken during the 100 years that followed the adoption of the policy of reservation, it was but natural that when next the shipping problem loomed large, within the vision of that country, immense attention should be paid to the question of the carriage of even the foreign trade of America by American vessels. The causes underlying the demand for a fully equipped national Mercantile Marine, which are nowhere better summarised than in the Preamble of the American Mercantile Marine Act of 1920, wherein it is stated:

THAT it is necessary for the national defence and for the proper growth of its foreign trade and domestic commerce that the United States shall have a merchant

Marine of the best equipped and the most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant Marine.

This extract from the Preamble so well sums up the general grounds for development of a national mercantile Marine, that it provides an excuse, if one was needed, for beginning an article on Indian Shipping with extracts from relative American Legislation.

SHIPPING PROBLEMS

It may be mentioned as an example of the simultaneous nature of that universal national thinking in industrial and commercial matters, that followed the Treaty of Versailles throughout the world, that the fervour which led the United States of America to pass an Act in 1920 had its reflex, microscopic no doubt, as is natural in a dependency dominated by a foreign bureaucracy, in the recommendation made to the Government of India by a private member in the newly formed Legislative Assembly, where Sir Sivaswami Iyer moved the resolution recommending to the Government of India of the appointment of a Committee to consider what measures can usefully be taken:

1. For the liberal recruitment of Indians as deck or executive officers and engineers in the Royal Indian Marine.

2. For the establishment of an adequate college in Indian waters for the purpose of training executive officers and engineers of ships.

3. For ensuring the entertainment of apprentices for training as such officers and engineers in the ships owned by shipping firms that enjoy any subsidy or other benefits from Government or any account for the creation of an adequate number of state scholarships for providing instruction in the nautical and training ships in England pending the formation of a nautical college in India.

4. For the encouragement of shipbuilding and of the growth of an Indian Mercantile Marine by a system of bounties, subsidies, and such other measures as have been adopted in Japan.

5. For the acquisition of training ships by gift from the Imperial Government or otherwise.

6. For the construction of the necessary dockyards and engineering workshops in one or more ports.

The terms of this Resolution, which was accepted by the Government, show the very backward condition into which the Indian Mercantile Marine had fallen as a result of the apathy for over a century of the Government of India in regard to matters connected with the maintenance and development of Indigenous Indian Shipping. This indifference of the Government proved all the more disastrous in so far as all private Indian effort in this line was nipped in the bud by a powerful British monopoly which had managed by diverse methods, well understood by monopolists, to practically reserving the coastal trade of India to its own vessels. Thus, between the indifference of the British Government of India and the self-seeking activities of the foreign organisations, the national shipping and shipbuilding industries of India became a matter of past history, though only

a hundred years ago Bombay used to build first line of Man-of-war for the British Admiralty. To revive the glories of such an immediate past has become the natural ambition of every true Indian patriot today. It is, therefore, not without reason, that all the Indian witnesses including those speaking on behalf of organised Associations have demanded with one voice the adoption of measures necessary to recreate and develop an Indian Mercantile Marine.

TRAINING

As the first step in that direction the Indian Mercantile Marine Committee has recommended the maintenance, by the Government, of a Training Ship, which has now been stationed at Bombay and on which the first batch of Indian Cadets will begin to qualify themselves for a nautical career, from the first of December next. As regards the Marine Engineers, the Government of India are considering measures likely intended to help Indian youths to qualify for those ports.

It should, however, be noted that mere provision of facilities for Indian lads to be trained as nautical officers, or engineers, is not adequate for the creation of an Indian Mercantile Marine. The definite view of the Committee is, that something more is required beyond the provision of training facilities and that "something more" is the reservation of the Coastal Trade.

RECOMMENDATIONS

They have, therefore recommended that the Indian Coastal Trade should be reserved "for ships the ownership and controlling interests of which are predominantly Indian." Their definition of an Indian owned and managed ship is as follows:

1. That it is registered in India.
2. That it is owned and managed by

an individual Indian or by a Joint Stock Company (private or public) which is registered in India with rupee capital, with a majority of Indians on its Directorate and a majority of its shares held by Indians, and

3. That the management of such company is predominantly in the hands of Indians.

The Committee proposed that effects should be given to their recommendations on Coastal Trade by the introduction of a system of licenses to be granted to ships trading on the Indian Coast. The practical nature of this recommendation is of such absorbing importance that those interested in the subject will welcome an opportunity of perusing in detail.

It should be announced that on, and from a certain date to be specified by the Government, no ship should be entitled to engage or take part in the coasting trade of India, unless such ship has first obtained a license from the licensing authority appointed for the purpose, subject to the following conditions:

Condition 1: Licenses or permits shall after the introduction of the licensing system be issued to any ship flying the British Flag, provided that it proved to the satisfaction of the licensing authority that such ship, not being more than 25 years old, has been regularly engaged on the coasting trade during the preceding twelve months and that the Joint Stock Company, (public or private) or individual by whom it is owned, gives an undertaking in writing to take Indian apprentices for training subject to a minimum of two per ship, no line being compelled to take more than 20 apprentices all told. Provided further that such Joint Stock Company, or individual owner, undertakes to employ qualified Indian Officers and Engineers as they become eligible, up to the extent of at least 50 per cent of the total number of Officers and En-

gineers employed. These licenses shall continue subject to Board of Trade Regulations until the ship has reached the age of 25 years provided the conditions set forth above are being complied with.

Condition 2: All ships hereafter seeking to enter the Coastal Trade can only obtain licenses in their complying with such conditions as may be laid down by Government for Indian Shipping concerns; provided also that the owners of all such ships are likewise required to give an undertaking on the lines indicated in Condition 1 regarding the employment of Indian apprentices and the gradual Indianisation of their Officers and Engineers.

Condition 3: The licensing authority may be given discretion to waive all or any of these conditions during exceptional periods of stress such as trade booms, famines, war etc., and to issue permits to any ship flying the British flag to cover such periods as he may consider requisite.

Condition 4: The licensing authority may also be vested with power to take such steps with the approval of the Government of India, as may be considered advisable to deal with deferred rebates, rate wars, or any other conditions which act unduly as a restraint on trade.

Condition 5: Provision should be made that, where by treaty made before the 13th of May 1869, Her late Majesty Queen Victoria agreed to grant to any ship of a foreign State such rights or privileges in respect of the Coasting Trade of British India, those rights and privileges shall be enjoyed by those ships for so long as Her Majesty agreed or His Majesty the King may hereafter agree to grant them. This, however, should be subject to the proviso that no foreign ships should under any circumstances enjoy superior privileges to those accorded to British Ships.

Condition 6: For the purpose of these regulations "Coasting Trade" may be deemed to mean trade exclusively carried on between any port or ports

in British India and any port or ports or place on the Continent of India (including Burma).

It is a significant commentary upon the absence of a national outlook in the present Government of India that a constructive proposal of an expert body, composed of members of their choice, is not given effect to by the

Government of India. It is, however, a good augury for the future development of an Indian Mercantile Marine, that public opinion, which has now come to have a keen realisation of the importance of an Indian Mercantile Marine, will not easily allow the Government to continue long its present indifference to the subject.

The Agriculture of India

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THE cultivation and use of the land in so vast a country as India must necessarily show enormous diversity, and it may at once be stated that the popular idea that a very large part of the sub-continent is like the land of the lotus eaters, where the necessities of life fall with little or no labour into the mouths of the indolent population is entirely false. Equally false, however, is the view which, largely on the basis of statistics, pictures India as a country largely desert, the remainder being badly cultivated and only needing the presence of the more knowing men of other lands to bring it to the agricultural level, say, of the countries of western Europe. As a matter of fact, India has areas, small though they be, where living is easy and where a livelihood, albeit a very poor one, can be obtained with the minimum of labour. On the other hand, there are desert areas, and large tracts where a meagre return only can be obtained for the expenditure of a very large amount of labour.

But two features are characteristic of the country from an agricultural point of view, almost from one end to the other. The first of these is the fact that all over (with the single exception of the planting industries of tea, coffee, rubber, etc.) agriculture is a peasant industry, conducted independently by small holders with their own hands, and to the extent which their own labour, or little more, supplies for the exploitation of the land. In this it is, of course, similar to most of the agriculture of Eastern

Europe and of China, but the predominance of such peasant holdings marks Indian rural life off from that of modern England or the United States of America, and gives it characteristics which must always be remembered in trying to picture India as an agricultural country.

RURAL LIFE

The typical unit of cultivation in India is, therefore, small. Though 125,000,000 of the population in British India live (to use the terminology of the Census of 1921) on "the exploitation of animals and vegetation," or, in other words on agriculture, and though these form 73 per cent of the total population, yet they only actually crop 226 million acres (1924-25) or only 1.8 acres per head, or say seven acres per rural family. This at once, marks out the character of the work. It is cultivation on a very small scale, carried out with the simplest implements, with a minimum of machinery, capital, or hired labour. The results are those which are found everywhere under similar conditions, unless modified by the development of coöperation, that is to say, a self-reliant, self-contained rural population, intensely devoted to the land and unwilling to change it for industrial labour if this can possibly be avoided, but generally living near the limit of subsistence.

There are exceptions to these general statements. The great planting industries of tea, coffee, rubber and the like are the outstanding examples of

the extension of large scale cultivation in India. These occupy nearly a million acres¹ under these crops in British India alone. These industries, which have been developed most largely in regions previously uncultivated, by foreign agency, are not purely agricultural in character. Each of them is associated with a somewhat complicated manufacturing procedure (more marked in the case of tea and rubber than in the case of coffee), and each means, in addition, waiting several years for a return on capital. Each has, moreover, a market which it is difficult for the small producer to exploit. Apart from these planting industries, localised as they are almost entirely in the northeast and extreme south of the country, agriculture on an estate scale conducted with hired labour, has never developed in any part of British India, in spite of many efforts and the expenditure of much capital.

The other feature which is characteristic of rural life and of agriculture in India is the tenure of the land and the collection of the people in self-contained and largely self-governing villages. Hardly any of the land in the country is, in the full sense of the term, privately owned. The assumption, on the part of all governing authorities, at any rate, is that the land belongs to the State, but is placed in the hands of subsidiary owners who, though they have in most cases, power to sell it, yet they or any buyers hold it subject to the payment of a fixed assessment to the Government. In some cases, as in most parts of Bengal, this assessment is fixed for ever; in most of the other parts of India, it may be varied by the State at definite intervals, of twenty, thirty or forty years, according to considerations which are now

standardised in each of the provinces of India.

While this alienable tenure of land, under the final ownership of the State, and subject to the payment of a fixed annual assessment, is practically universal in British India, yet the form it takes varies widely, but resolves itself into two essentially different types. In North India generally, including almost the whole of the great alluvial areas in the valleys of Brahma-putra, Ganges, and Indus, the land is held by landlords (termed *zemindars*) who then let it to the actual peasant cultivators. In the remainder of the country, embracing the Central Indian and Deccan plateaux, Burma, and South India generally, the ultimate owner of the land (that is to say, the Government) deals with the peasant cultivator himself (*raiyat*) who is responsible for the assessment, and, in the ideal, cultivates the land himself. In any case, the result as regards the agriculture is similar. Small holdings are the basis of cultivation, and are necessarily grouped into villages with a very strong bond of union between the people of the same village, either because the land belongs to the same *zemindar* or because such small holders have to provide for common services (carpenter, blacksmith, rope-maker, etc.). Thus there is much community in supplying the needs of the people, but each *raiyat* cultivates, in absolute or almost absolute independence, the small amount of land which he holds, either as the tenant of a *zemindar*, or as a direct holder from the State. This *independence in cultivation* of each of the holders of land, however small the holding may be, is very deep rooted in the people, and though farming in coöperation *does* occur, it is relatively rare, and the pooling of holdings to make a decent-sized farm is equally little known.

¹ The figures for 1924-25 are: Tea, 715,836 acres; Coffee, 94,298 acres; Rubber, 80,807 acres.

We have, therefore, almost everywhere, a system of peasant agriculture, with all its disadvantages intensified by the smallness of the holdings, and by the fact that (even when the cultivators are tenants of one *zemindar*) they cultivate independently. This results in perennial shortness and extreme expensiveness of working capital, and of inability to use the capital so as to get the best result in production from the land. These disadvantages are least seen where the soil and climate, or irrigation arrangements, permit intensive cultivation, and the use of a large amount of hand labour, which, in certain agricultural conditions, obtains yields and results that no large scale cultivation has yet obtained. The disadvantages are most in evidence in those dry and precarious regions where intense hand work yields no adequate return.

CONDITIONS OF THE LAND

Recognising that, with the exceptions noted, India is a country of peasant agriculture, conducted independently by very small holders with very limited working capital, we may now consider how the use of the land is affected by other conditions. First, as regards soil. In this matter one great distinction may at once be made. The great alluvial plains forming two thirds of the cultivable area of British India, and comprising the whole of the valleys of the Brahmaputra, Ganges, and Indus, and of the lower courses of all the rivers draining into the Bay of Bengal and the Arabian sea, represent as good agricultural soil as occurs anywhere in the world. Indefinitely deep, in many places without a stone, originally consisting of forest jungle and grass plains, they are capable, with adequate water supply and good cultivation, of producing crops (and in some cases

do actually produce crops) as good as any found in the richest areas of the United States. The rest of the country, comprising almost the whole of peninsular India and extending northward in Central India nearly to the Ganges and Jumna rivers, consists of rocky high lands, sometimes hills and valleys, sometimes high irregular plateaux, always poor as a whole, with patches or strips of rich land which have the benefit of erosion from the higher lands. Some of the soils of these uplands have a high reputation, like the black cotton soil or *regur* found on the Malwa plateau in Central India, or the Deccan plateau further south; but the really good land is always patchy, and, taken generally, peasant agriculture in these areas is usually hard and yields small returns.

IRRIGATION

Much of the country included both in the alluvial plains, and in the rocky high lands and plateaux has a small and precarious rainfall. An uncertain rainfall is, of course, far more dangerous from an agricultural point of view, than a small rainfall; for the areas of very small rainfall, like Sind and parts of the Rajputana desert and of the Punjab, remains uncultivated and often without landholders, until irrigation is introduced, and when water becomes available the country blossoms as the rose. But in the precarious tracts,² the position is far more uncertain. In a majority of years a reasonable crop can be obtained. In the remainder, the crop is small and incapable of supporting the peasant holder, and, in extreme cases, no crop at all is obtained. Under these conditions irrigation has seemed the only remedy, and though there has been some experiment in the direction

² The precariousness of rain will be dealt with in detail in the chapter on famines.

of retaining water in the soil by improved methods of cultivation (the so-called "dry farming"), the extension of this method is a matter for the future.

But irrigation has been developed in the desert and in the precarious tracts of India on a colossal scale in recent years, particularly in the areas included in the great alluvial areas of North India. The construction of irrigation works, either by private individuals or by the State is, however, no new thing in India. All parts of the country where rain is not sufficient or sufficiently well distributed, or too precarious, and where water is available at a reasonable cost, abound in sources from which the land can be watered which are still used and are still being extended. Wells are employed in almost all parts, from the Ganges valley where they can be constructed for a few rupees, to many of the Deccan areas where a well capable of irrigating only five or six acres will cost a thousand rupees. Further, Madras and the South generally is the home of the irrigation tank or lake, made by blocking up the mouth of the small valleys so common in that region. The larger rivers had, even in pre-British times, already been utilised for inundation canals which flowed and fertilised the land during the flood season, but it has been reserved for recent years to undertake works on a scale not hitherto thought of, and so to extend enormously the area which has been made no longer solely dependent on the most precarious rainfall.

In some parts of India, this extension of irrigation has created an agricultural revolution. These are chiefly in the areas of the great rivers of the north, particularly in those watered by the Indus and its feeders, and to a less extent by the Ganges and

Jumna. In what has been here termed the rocky peninsular areas, the opportunity is less, and only a small proportion of the cropped area can ever be irrigated, owing partly to lack of water and partly to the conformation of the country. But a general idea of the importance of irrigation to India as a whole can be obtained from the following statement showing the proportion of the area in British India sown with crops, which is irrigated.

NORTH INDIA AREAS, WITH BURMA

	<i>Per Cent</i>
Bengal.....	3.5
Assam.....	7.5
Burma.....	8.5
Bihar and Orissa.....	17
United Provinces.....	19.5
Punjab.....	40.5
North West Frontier.....	36
Sind.....	73

PENINSULA AREAS

	<i>Per Cent</i>
Bombay.....	4
Central Provinces.....	4
Hyderabad State.....	5
Madras.....	24

Excluding Madras, where the figure given is very largely increased by the inclusion of the irrigation in the lower valleys of the great Deccan rivers near the East Coast, it will be seen that the area irrigated compared to the area sown, is decidedly small—almost negligible in fact—in the Peninsula. In the North Indian provinces, however, when irrigation is needed at all, the proportion may reach a very high figure, as in the Punjab and Sind. In the Punjab, in fact, the recent development of irrigation (where it has now reached over 13,000,000 acres) has converted a poverty stricken province into almost the richest region in the country.

PRIMARY PRODUCTION

The primary production of the agricultural land of India is food for its

300,000,000 of people, and it will not therefore be surprising that out of a total of 225,000,000 acres annually under crop in British India, no less than 200,000,000 are, at least partially, under various food grains, out of which by far the largest area is occupied by rice. Except for rice and wheat, little of all this production of grain is exported. Even of the two grains mentioned, under 8 per cent of the rice production leaves the country, and about 14 per cent of that of wheat, though this latter is one of the chief export crops and the amount sent from the country in 1924-25 reached a total of 1,100,000 tons.

These food crops, grown by India, thus, almost entirely for the feeding of its own people, on eight-ninths of the area actually cultivated, consists chiefly of eight grains. *Rice* heads the list, and occupies nearly 80,000,000 acres, being grown wherever there is a rainfall sufficient, (say over 40 inches per annum) or good irrigation, and where the soil is good enough. It is, *par excellence*, the crop of flat lands, and though in the regions suitable for them, varieties are known which flourish at almost any time of the year, the great crop is that grown during the rainy season, ripening in standing or flowing water, and grown, over most of the area, by transplanting the seedlings laboriously by hand into the fields where they finally grow. Rice is the typical crop of the small cultivators in the wetter parts of India in the rainy (*kharif*) season.

Next to rice stands wheat, grown entirely as a winter (*rabi*) crop and almost entirely in north and Central India, where 90 per cent of the area lies. Over one third of the land under wheat is irrigated. The average yield per acre compared with other countries, is small, being 17 bushels per acre under irrigation, and 11 bushels

per acre without irrigation, in the greatest wheat growing province (Punjab).

After wheat come the group of millets, which make up together nearly 40,000,000 acres, almost exclusively used as a food by the people in India. These are chiefly sorghum (*jowar*) which is by far the most important, extending over 22,500,000 acres; pearl millet (*bajra*) with 12,000,000 acres, and *ragi* (*Eleusine corocana*) a small grain hardly grown elsewhere on a large scale, but occupying 4,000,000 acres in India. The two last are grown in the rainy season, on poor lands, while sorghum, the typical crop of heavier land in the drier tracts without irrigation, is cultivated both in the rains and in the winter season.

Maize is relatively a far less important crop than would have been expected, though it occupies nearly 5,500,000 acres. Most of this however, occurs in the drier alluvial tracts of the Punjab, the North West Frontier and the United Provinces. Very little is grown in Peninsular India. Barley is likewise only important in the north where it is grown as a winter crop, but in spite of this restriction in area, it occupies nearly 7,000,000 acres.

The importance of Indian crops in world agriculture does not, however, depend on these food grains, but rather on those others which are classed by Indian cultivators as money crops. These are grown for sale, and in many cases for export. These include cotton, which occupies by far the largest area; jute and similar fibres, of which India has almost a world's monopoly; oil-seeds of various kinds, of great importance in the export trade; dyes like indigo whose cultivation is, in most cases, now dying out; sugar cane whose product is entirely absorbed in the country itself; tobacco, another large scale cultivation done now chiefly

for Indian consumption: and the planting crops, tea, coffee, and rubber, previously referred to.

The cotton crop in India is only second in quantity to that produced in the United States of America, and furnishes over 6,000,000 bales of cotton to the world's supply. It is a vitally important crop to the Indian cultivators through almost all the drier parts of the country with an annual rainfall of less than 40 inches, from almost the extreme north of the country to Cape Comorin in the South. There are over 17,000,000 acres under this crop, in British India alone, out of which 3,000,000 acres are irrigated. This only very inadequately represents the importance of the crop, for at least 6,000,000 additional acres of cotton are grown in the various Indian States. The average yield per acre is low, being only 104 pounds, though there has been a steady increase in recent years. The characteristic Indian cotton is short in staple and rough, suited for coarse spinning and weaving, though there are now types grown in Bombay, the Punjab, and Madras which are of high quality. Over by far the greater part of the cotton area, especially in the black cotton soil regions of Central and Peninsular India, where the concentration of cotton-growing is the greatest, the crop is grown in rotation with sorghum (*jowar*), the latter giving food to the peasant population and their animals, and the former furnishing the money for their livelihood.

In its own area, the jute crop is equally important, but this is almost entirely in the northeast of the country, with a rainfall of over 50 inches per annum. The total land under the crop reaches nearly 3,000,000 acres in British India, of which 86 per cent is in Bengal. The crop rotates with rice, and is grown between April and October, being planted before the rainy

season so as to get well started before the land is flooded by the heavy rains. The conditions required for successful jute cultivation are fairly narrow, and the retting of the fibre can only be done in a country of great rivers and abundant water. The lower Ganges and Brahmaputra valleys present these conditions and hence almost monopolise the production of *jute* in the world. Jute substitutes, like sann-hemp (*Crotalaria juncea*) or Deccan hemp (*Hibiscus cannabinus*) are far more widely grown, to the extent of three quarters of a million acres, but the true hemp (*Cannabis indica*), though a common plant in many parts of the country, is never grown for fibre, but is cultivated to a limited extent for the intoxicating drug known as *hashish* or *ganja*.

If Indian agriculture is responsible for the world's supply of jute, and for a substantial portion of that of cotton, it furnishes also one of the most important sources of oil seeds and their products, including linseed, sesamum, castor, cocoanut, and, in recent years, groundnut, besides many others which are less well known. Together the area under these oilseed crops is over 15,000,000 of acres in British India, while a very large acreage is also found in Indian States.

The international importance of these cultivations is suggested by the fact that the export of oilseeds and oilcakes was valued at nearly 24,000,000 pounds sterling in 1925-26. Naturally a variety of crops like these demand very different conditions of growth, but almost every part of India furnishes one or other of them. Linseed, for instance, which occupies over 2,500,000 acres, is concentrated in the Central Provinces, and the country to the north between them and Himalayas, and the estimated yield in British India only is between five and

six hundred thousand tons. Sesamum, a still more typical Indian oilseed crop, occupies 3,500,000 tons of seed. It is very widely grown, but is most concentrated in a belt through the central parts of the country from the northern parts of Madras, through the Central Provinces, to Rajputana—and in Burma.

Rape and mustard, on the other hand, form essentially the winter crop of Northern India. These seeds occupy an area of nearly 4,000,000 acres, and yield over 1,000,000 tons of seed per annum. The progress of the groundnut (peanut) crop in recent years is most remarkable, and it now occupies nearly 3,000,000 acres and is calculated to yield about 1,500,000 tons per annum. The cultivation is rapidly developing in all the drier regions of the country, especially in the plateau soils of the peninsula and in Central India, as well as in central Burma.

Finally, castor may be mentioned, though the centre of its cultivation lies in the Hyderabad State. But its importance is likely to increase, and it occupies chiefly high, dry lands in the Indian peninsula, fit for little else. At present there are about 1,250,000 acres under the crop, of which three-fifths are in Hyderabad, and half the remainder in Madras.

OTHER CHARACTERISTICS

It is only necessary, in a short sketch like the present, to refer to two or three other characteristic Indian agricultural crops and products, for these are less numerous than they used to be. Dyes, especially indigo, formerly so important, have now sunk to insignificance, owing to their replacement by synthetic products. The cultivation of opium, formerly so important in the Ganges Valley and in Central India, is now very severely restricted, being only grown under the

strictest Government supervision. Silk is a declining production, and, it seems, is fated to fall even below its present amount. In the case of lac, for the production of shellac, where India is the main producer for the world, the position is different, and despite the loss of the market for lac dye, the cultivation of the lac insect on local trees and cultivated plants is a matter of great importance to the peoples of several of the wilder areas of the country. The annual value of the Indian lac export is not less than 5,000,000 pounds sterling (1925-26).

Sugar cane cultivation in India is very widespread, but except in a few parts of North India has never become the basis of a sugar industry on modern lines, while the import of sugar is one of the biggest items in the external trade. The crop occupies 2,500,000 acres and, on the average, only yields under one and a half tons of crude sugar (*gur*) per acre. There is no crop with greater possibilities of development, and the yield per acre in northern India is certain to advance rapidly in the future as a result of the discovery and breeding of higher yielding canes.

Tobacco is another rapidly developing crop, and now occupies over 1,000,000 acres. Indian tobacco has usually been classed as inferior, strong, and coarse; but its cultivation is nevertheless very widespread, reaching its highest intensity in northern Bengal, on the east coast, and in parts of Burma. It is essentially a crop demanding high class work, on rich soil, and, here, as in other countries, to be a successful grower of tobacco marks a man as a cultivator of the first rank.

ANIMAL HUSBANDRY

This partial enumeration of the chief crops of India does perhaps little to carry an idea of the agriculture of the country, and yet it *should* do so to

a much greater extent than in most other countries of the world. For the Indian farmers are essentially producers of *crops*. Animal husbandry and the preparation of animals and their products for market take a far less important position in India than almost anywhere else. For a very large part of the Indian population consists of vegetarians, and, for the rest, the consumption of meat is very small per head. Hence the demand for animals for meat is very limited. Further, in India, the horse is not used for agricultural purposes, its place being taken almost entirely by the bullock. Therefore, the production of horses is very restricted: the production of cattle and even of sheep for meat is extremely small: and animal husbandry concentrates on supplying cattle for work purposes and for milk, and on sheep and goats for wool (or hair), skins, or other products—and only to a very minor extent for meat.

Nevertheless there are large areas which are almost purely pastoral, and a large part of the cattle and other animals needed in the life of the country are produced in a few thinly peopled areas where the growing of crops is almost impossible, but where the soil and rainfall ensure ample supplies of grass. In such tracts—like Rajputana, parts of the Punjab and Sind, Kathiawar and North Gujarat, or the high lands of Central India, the best breeds of working cattle are raised by semi-nomadic pastoral people, and sent to the more densely peopled areas. The milk supply is very largely obtained from the water-buffalo, which though nearly useless as a work animal, yet gives a fairly large amount of rich milk on a diet too coarse for ordinary cows.

The keeping of sheep and goats as a business (though many goats kept for milk will be found in almost any

Indian village) is also very largely in the hands of semi-nomadic breeders and shepherds, though they are found in very many areas where cattle breeding under similar conditions is not possible. The sheep are poor, both in size and in production of wool, and, as a matter of fact, a *large* sheep is not desirable where meat is not a primary object. Many attempts to improve the wool have however been made by cross breeding, with a good deal of success in the Punjab and north India generally, and with little success anywhere else. The importance of the wool production can be perhaps, judged by the fact that, after supplying local needs, there is a net annual export of raw wool from India of 3,000,000 pounds sterling, besides an export of woollen goods of 1,000,000 pounds sterling (1924-25).

IMPROVEMENTS

The picture of Indian agriculture which has been given is, therefore, that of a vast mass of small holdings, worked as a rule on a family basis with a minimum of hired labour, and also with a minimum of capital. The farmer grows such crops as the land is suited for, chiefly for the feeding of himself and family and his working animals (the latter being invariably bullocks), but also growing a proportion of money crops which enables Government assessment to be paid and such necessities as are required to be purchased from outside.

Perhaps the item in this summary which affects the agriculture most is the fact that the capital possessed by the farmer is usually the minimum possible, apart from his land, and this absence of capital determines to an almost inconceivable extent the way in which agriculture is carried on. For the absence of capital—especially in the absence of a well-developed

agricultural banking system, and still more when matters are complicated by an uncertain and precarious climate such as occurs in a very large part of India—means comparatively crude methods of work, primitive implements, hesitation to utilise fertilisers, whose purchase demands out-of-pocket investment, and generally, the impossibility of making experiments, or of making very radical changes in agricultural methods. As a result, the cultivators of the land in India are *supposed* to be extremely conservative, to refuse change when the advantage of change is clear, to refuse to take advantage of methods which have proved their value in other parts of the world.

After long experience of Indian farmers in many parts of India, I think that this idea of innate conservatism among the rural classes is not correct, and possibly they are really less averse to change than a very large proportion of the farmers of western countries. I have seen, again and again, within twenty years an old but less efficient implement replaced almost entirely, over large regions, by one more efficient, or an improved type of seed replace that in use for a hundred years, or the employment of artificial manure become general. And it would really seem to be true that readiness to adopt new methods is the characteristic of the Indian cultivators, provided they are *proved*, to their own satisfaction, to be of advantage, and provided they give a return which will warrant the borrowing of capital at high interest. To put it another way, economy of capital or out-of-pocket cost is more important than economy of running expenditure, where the labour is a man's own and has to be provided with food and maintenance in any case.

Hence, throughout India, implements will be found to be crude,

rough, less economical in working than those which might easily replace them and which are available at a higher capital cost. The manures and fertilisers used are generally those which can be obtained locally, and with little or no cost except for labour. The most welcome improvements are those which, like an improved type of seed, will prove increased returns with little capital outlay, even if much more work is required in raising the crop. If the result is good and the returns are increased, then other improvements immediately become acceptable.

These considerations must be in the minds of anyone who studies the gradual but relatively rapid advance in the technique of Indian agriculture in recent years. After all that has been done, the outside observer will probably consider farming in India as being in a very primitive state of development, but I doubt whether it is so. Certain it is that the attempts at the wholesale adoption of western methods in Indian agriculture have usually failed, and I know no sadder sight than the museums one sometimes sees of large numbers of implements, apparently suited to the conditions, imported by some enthusiast into a particular area for use by the cultivators of the country—but which have never come into use.

And yet, as has already been stated, there has been a great advance in recent years in the agriculture of the country, as judged by the returns which the land can be made to give. Many of these advances have been made as the result of the work of the various agricultural departments in India, which, though founded many years before, were placed on a substantial basis in about 1905. These have very largely expanded since that time, and in most of the Indian provinces as well

as in some of the Indian States very full advantage has been taken of the discoveries made and the experiments carried on.

These recent improvements have chiefly taken two or three lines. Of these the first is the production and extension of types of crops giving a bigger return than those actually in cultivation, and these have been taken up with enthusiasm by the small-holding cultivators of the country. Improved cottons, sometimes higher yielding types, sometimes better quality types, are now in cultivation over millions of acres; higher yielding kinds of jute have already spread to 10 per cent of the total area under that crop. In the production of food crops like wheat and rice, particularly the former, very great success has been attained in getting higher yield per acre and better quality of grain and greater suitability of the plant to the conditions. Sugarcane varieties have been evolved suited for north India, which give vastly greater yields than were formerly possible in that part of the country. Tobacco strains have been isolated and are now in widespread use, which have enabled a much higher grade of product to be obtained.

Implements are rapidly being modified to suit the conditions. I remember the time when the iron ploughs in use

in the Deccan could be counted on the fingers; now they are there by the hundred thousand. And where a cheap implement is found which will do better work under any particular conditions, then there is rapid adoption. But the problems of cultivation under the special conditions of Indian agriculture are only beginning to be really attacked by the agricultural departments.

The use of artificial fertilisers is spreading, particularly in irrigated lands. Indian soils are usually, though not universally, rich, except in nitrogen, and hence it is the use of sulphate of ammonia which has developed more than that of any other fertiliser. But others are coming, and, in certain cases, the proved value of green manuring has modified profoundly the methods and results of growing a crop.

There are some indications of the lines in which progress, in such an old agricultural country as India, is even now being made. I see little limit to what can be done, provided always the fact that the essential unit of agriculture in India is a small holder, with little or no capital beyond his land and bullocks, is kept in view. A rise of 50 per cent in the production of the land in India in the course of the next generation is not, in any sense, a Utopian ideal.

Famines and Standards of Living

By V. N. MEHTA, I.C.S.

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THE Sanskrit word for famine is "Durbhiksha," a state of things in which it is difficult to indulge in the desire to divide one's portion with others. The word rivets one's attention to the five Sacramental acts which every Hindu householder is enjoined to perform every day of his life—two of the most important being offerings to human and other sentient beings. This vast ramification of charity keeps alive a floating population living on the margin of want without the state having ever to step in to organise their systematic relief. Whenever there is a failure of crops and crop prices mount up, this margin available in every household shrinks up and the poor migrate to towns where private charity is better organised and more easily mobilised. Cultivators find it difficult to carry on without borrowing, and as the Sahukar (money lender) curtails his credit there is both dearth of food supplies and shortage in the wherewithal to buy utilities. People begin to draw out gold and silver ornaments from their hoards and cattle, both draft and milkers, are brought to the market for sale. The townward trek of the poor, the migration of labourers in the search of employment and the sale of cattle and ornaments, indicate that scarcity, has set in.

EARLY HISTORY

In the days of old, the charity-minded started *Sadavrats* (grain doles) and temples, *annakshetras* (free mess booths). The State, as is noted by the Mauryan Minister Kautilya in his book on *Indian Polity*, commenced

works on fortresses and bridges. Banjaras (public carriers) were encouraged to mobilise their pack bullocks for tapping the surplusage of one region to make up the depletion of another and the doors of Dharmagolas or grain conservatories were thrown open. Royal forests, tanks and orchards were made accessible to those in want, and the sowing of root and early growing crops were encouraged and many other palliative measures were undertaken to tide through the privation of the season. But when there was a succession of failure of crops, when on the top of shortage of supplies came shrinkage in the effective ability to meet wants or demand for commodities, then the Statescraft of those days stood bankrupt, and save migration to regions near the sea, nothing was left for the King to order and the subject to obey. It was then that the march route to Malwa and Gujerat was littered with the dead and dying and the state of nature of which Hobbes has given such a gruesome picture, "the war of all against all", prevailed.

It is a deep-seated idea amongst the Indians that the King (*Rājā Kālasya Kāranam*) was responsible for the creation of the time-spirit. Failure of crops, whether it was due to acts of nature or man, was put down as the result of the King's misdeeds and yet, except in the South of India where hydro-engineering had reached a high level of development, we read of only one serious protective measure attempted by the Kings of the North, when the Kauravas,¹ in trying to win over their Pandu-phil subjects, were

¹ Kirātārjuniya of Bhāravi.

constructing water channels, dependent for their water supplies, on rain. The sparseness of the population, the unexhausted nature of the soil and the infinite possibility of expansion in unexplored hinterlands, however, kept famines at bay.

The system of keeping up Dharma-golas or grain stores mentioned by Megasthenes made up for local deficiencies of a not-too-widespread character and the theory of royal land taxation left economic rent and more with the cultivator. The land was supposed to belong to the person who broke the glebe. The State-takings were restricted to one sixth of the land produce. "Milch the cow with due regard for the calf. Do not bore the udders;" and though in times of need rich men were made to vomit wealth (Vamanam) there was a general feeling against the King demanding more than his customary fee (the *ati-Khādinam* or too-much-eating-King was disliked). Standards of life were regulated and stereotyped on a community basis. Flaunting of wealth in an ostentatious manner was taboo and the surplus was generally spent on constructing wayside wells and tanks—still redolent, by their names as "the well of the grain-grinder," or "the tank of the corn-parcher," of the lowly origin of their authors.

The invasions of Scythians and Huns, the Greeks and the Muslims, specially of the predatory Pathan and not the cultured Arab type, harried the country side. The Muslim theory of State-ownership of land introduced a different theory of land assessment. Middlemen came in between the cultivator and the ruler and these sponges, as *Vespasian* called them, were squeezed at regular intervals as they were supposed all along to suck in any moisture that was visible in the country side. The vagaries of the

season, the vicissitudes of political life and the pranks of Indian Caligulas and Heliogobalus made the cultivator the plaything of potentates and the sport of circumstances. If a botanical trope be allowed, the even course of normal life corresponds to the equilibrium in plant life existing in the plant sap between the even push of the root-pressure and the steady pull of leaf-transpiration. Structures always adapt themselves to changes of function and if there is fear of dessication in the soil or failure of regular supply of food, the plant, if it is to live, must build up hard tissues on the leaves which curtail transpiration and storages of reserve food material and even water in the plant body.

For the Indian cultivator the pull of tax-transpiration increased and the push of root-pressure diminished. Prudential considerations were of no avail. *Mathew Arnold* failed to notice the significance of environment on the workaday life when he pictured in his *Pagan World*,

The East bow'd low before the blast

In patient, deep disdain;

She let the legion thunder past

And plunged in thought again.

The cultivator became improvident. His economic myopia has been the result of the incalculable nature of his future and the cause of the low standard of his life. "An elephant perch one day, a horse ride another and footing it on bare feet the third" has been the parable of his economic existence and a confession of failure to maintain a decent standard of life. The result has been that it has been pitched at the lowest level. It is said you can take away something from an Englishman's life, none from an Irishman's. The Indian is in this respect on a par with the Irish and his staple diet of potatoes. Necessities, decencies and luxuries are the three

stages on the march of the economic conquest of nature and its subdual for the improvement of man's estate. Their scale has become stereotyped in the standards of life of provident people and the community strives incessantly to mould nature to be the hand maid of this social ordering.

FIGHTING FAMINES

The pathogenic conditions that usher in an era of local or widespread famine are the outcome of any one or more of the following causes: (1) drought; (2) floods; (3) insect pest; (4) hail or frost; (5) devastation by armies or wholesale evacuations as were ordered in the time of Mohammad Tughlakh when he changed the metropolis from Delhi to Deogiri in the South; (6) absence of diversity of occupations; (7) exclusive dependence on agriculture or, in the expressive language of the Sanskritists, excessive milking of the agricultural cow so that nothing is left for the nourishment of the calf; and, (8) "the earth's becoming man-heavy." Any of these causes or the cumulative effect of more than one creates a milieu wherein those who are not in a position to lower their standards are left resourceless.

Famines are, in short, the result of acts of God or acts of man. Their action and re-action are complementary and the indigent are pulverised between the nether stone of drought and the upper one of resourcelessness. No earthly power can stop drought. It can lighten the intensity of its on-set. Afforestation can draw clouds and the undergrowth can intercept, in its toils, surface water from rushing into ravines. The irrigation commission found that a sustained policy of protective canalisation would wrest 2.25 per cent of the volume of water that at present ran out to sea and make it available for irrigation. As has been

noted above, little had been done in the Hindu period to protect the country directly against drought. Firoz Tughlakh harnessed the Jumna for irrigation of his domains in Hissar.

The Moghals had seen canals in their home lands and were keen horticulturists, but they cut canals from rivers for their pleasure gardens. Khairuddin the Persian historian of the Sharqis of Jaunpur relates the incident of Akbar finding a mother wailing on one side of the Gomti, waiting for the ferry to hurry her across to her hungry baby when the Sharqis could have, in the words of Akbar, built a bridge across the river Gomti instead of wasting their substance in the construction of forts and mosques. But even Akbar did not undertake an irrigation work that would have made the North independent of rain. Even his architectonic mind which contrived to do so much for public weal bowed before the inevitable and left his people only with the weapon of the Mantra "Magic chants" to compel the "dispenser of rain to tilt his water bag."

The impotence of man and the omnipotence of the forces of nature could not have been more unerringly demonstrated. This terrible race experience has worked darkly into the warp of the cultivator's mind and the resultant "will to action" has ever after acquired a fatal limp. His life has become a gamble in rain and he is a gambler not in the exuberance of plenitude but the despair of destitution.

A striking change in this policy of fighting famines was inaugurated in the forties of last century when the Ganges canal was first cut and Lord Sydenheim describes with pardonable pride in "my working life" how the British have brought three crores of acres under irrigation, an achievement unapproached in pre-British India. In spite of the criticism that railways discour-

aged the habit of storing grain and ordinarily left the cultivator with money but not the grain to buy it with, the Famine Commission of 1900 definitely found that

the railways though they have extended the area of famines have reduced the intensity of distress and if they have discouraged the storage of grain they have substituted the great reserve of the country at large for the petty reserve of the individual.

Protective canals and famine railways are two of the best measures taken for insuring the country against the recurrence of a type of famine which in 1900 spread over 475,000 square miles and in 1899 involved 69,500,000 persons under relief.

What Legoyt has said about France has happened in India in that famines have been gradually replaced by Disettes (scarcity), and today only Chertés (dearth) are known. The famine code, like the code of Justinian, will ever remain a monument signalling the establishment of the "reign of law" in the midst of warring policies, and what was once but a pious wish has been made a detail of famine administrative routine:²

Every District Officer would be held *personally* responsible that no death occurred from starvation which could have been avoided by any exertion or arrangement on his part.

ERRING LAND REVENUE POLICY

The resourcelessness of the family unit is directly the result of erring land revenue policy. The efficient suction of the sponge of land taxation has been responsible for its birth and the low standard of life, which most of the cultivators are condemned to accept,

² Order passed in 1868 by Sir William Muir, Lieutenant Governor of the United Provinces, reproduced on page 478 of Sir Harcourt Butler's brilliant article on "Famines" in the Imperial Gazetteer of India, Volume III.

its visible repercussion. Ever since the Muslim conquest, except when Akbar tried to restrict Government demand of land revenue to one-third of the average out-turn, the State has looked upon the cultivator as a helot on a human cattle farm where the inmate is left just the barest minimum sufficient to keep him alive and the economic rent and more has wholly gone to the estate owner—the State.

Lord Cornwallis pitched the Government demand at eleven-twelfths or 90 per cent of the rental and justified the fixity of demand on the selfish ground that the landholder would thereby be able to build up a margin on which he could draw for payment of Government revenue in lean years. The tenant was left to the tender mercies of a landed aristocracy brought up in the traditions of rack renting and what, with the increase of population due to Pax Britannica, and the absence of alternative occupations to absorb the increasing number, the pressure on the land accelerated subinfeudation and there were as many as twenty tiers of tenure-holders between the payer of Government revenue and the actual rack rented cultivator of the soil. It was clear that the margin which would have been otherwise available under the permanent settlement for raising the standard of life was wholly absorbed by the concentration of higher number of persons on the same area for their sustenance.

In the North the Government demand was at first pitched as high as 83 per cent, subsequently lowered to 75 per cent then to 60 per cent, and it was not till 1855 that it was fixed at 55 per cent. The policy pursued in the Ryotwari tracts in the South and in the Malguzari tracts of C. P. took as much back from the land as would have been consistent with the theory of the State taking the economic rent, leaving to the

cultivator the barest minimum for his subsistence. It was not till after a new orientation in the policy of Government was ushered in by the assumption of the Government of India by the Crown that the methods of management of this country as a huge cattle farm were given up. Various acts were passed restricting the rent which was forced out of an ignorant home-keeping tenantry. The prime consideration of deriving as much income from the land as possible gave place to the higher consideration of making the assessment in the words of Lord Curzon's Government resolution

equitable in character and moderate in incidence; and that there should be left to the proprietor or to the cultivator of the soil that margin of profit that will enable him to save in ordinary seasons and to meet the strain of exceptionable misfortune.

The MacDonnell Famine Commission of 1900 found that the

land tax was full and its rigidity in hard times forced the cultivator into debt and unless provision for suspension and remission of revenue and rent be an integral part of the revenue system in any province the cultivator will be forced to borrow on conditions incompatible with his solvency and independence. *Nothing can be more useful in anticipation of famine than improvements in the material condition of the cultivators whereby they may be enabled to withstand the pressure of hard times.*

The feeling against heavy assessment was due to the fact that it was a visible direct tax, that it formed an important item of the State revenue and in the eyes of the critics it was wholly a loss to the country as it was described as leaving India in the shape of the home charges.

It is to this that Lord Salisbury, Secretary of State for India, referred when he wrote:

So far as it is possible to change the Indian system it is desirable that the culti-

vator should pay a smaller proportion of the whole national charge. It is not in itself a thrifty policy to draw the mass of revenue from the rural districts where the capital is scarce. The injury is exaggerated in the case of India where so much of the revenue is exported without a direct equivalent.

The persistent ventilation that Mr. Dutt's writings gave to the State of penury of the ryots in Ryotwari tracts and of landholders in temporarily settled districts ultimately resulted in restricting and regulating the suction of the sponge of the land tax and preparing a famine campaign that would cope with the famine of money and food. The "India of the future was not to be a land of diminishing plenty, of empty prospects and of justifiable discontent." Land revenue has since become a provincial subject. Its incidence and repercussion on the tenantry have become subjects for the provincial legislature and its levy is no longer objected to on the ground that it is a drain from the province. The danger lies in introducing rigidity where elasticity should be the rule.

STANDARDS OF LIVING

It was Mr. Dutt who wrote at the end of last century that 80 per cent of the gross produce was retained by the cultivator in Bengal, 14 per cent paid to landlord as rent and 6 per cent to the Government as land tax. In Northern India the cultivator got 80 per cent, the landlord 10 per cent and the Government 10 per cent. In Bombay and Madras the cultivator got 70 per cent, and in C. P. 60 per cent, the balance going to the Government. But the question can be pertinently put and was actually put by Lord Curzon before the Madras Mahajan Sabha whether in case the Government reduced the demand by 25 per cent would "there be no more famine, no more poverty, no more distress?"

The reply which Sir Narayan Chandavkar is reported to have given to it has been partially correct. In the Ryotwari tract it would leave a larger margin to the cultivator, but in the absence of a settled and persistent policy on the part of the Government to protect the country from drought and the readiness on the part of the cultivator to absorb the superplusage of one season in rendering him less resourceless, the margin released would be frittered away on feeding a larger population per acre. The scrambling for land available for cultivation would increase. Possession of land still confers a patent of gentility and is a passport to the marriage market. The vicious tendency of tying up a larger proportion of men than can utilise land as an efficient instrument of wealth production will be intensified. It is in this sense that we are considering famines in their relation to the standard of living. Action will have to be bilateral in order to immunise the community against the dire consequences of drought.

Lord Curzon was never tired of enjoining on Indians the necessity for raising their standard and enriching the content of their lives. If an agricultural simile be allowed, the even tenor of the cultivator's life was like his superficially furrowed field, lacking in the capacity of absorbing moisture precipitated from outside. It needed lateral expansion and vertical depth just as much as the soil required its crust to be broken and the subsoil thoroughly upturned and aerated. This increased its capacity to retain hygroscopic moisture for the sustenance of a thoroughly tillering plant. A superficially ploughed field falls an easy victim to desiccation and is incapable of acting as a retentive sponge—suffering like its owner acutely from the scantiness of precipi-

tation and little advantaged by its surplus.

In the reformed council as has already been remarked there is not that acute desire to fix permanently Government demand on land. Money is wanted for long postponed social, sanitary and industrial reforms, for rural amelioration and rural reconstruction. "Let the Sun suck the moisture available in rural areas provided it is wholly precipitated back on land." There should be an agricultural policy. The rural areas should come into their own. The town-bred absentee landlord, who looks upon his zamindari as a business on which a certain percentage must be anyhow returned, is to be discouraged from looking village-ward for his investment. However much the Land Alienation Acts in the Punjab and Bombay, which curtailed the power of the peasant cultivator of alienating his land, might have been assailed with the most pointed missiles thrown up from the witches cauldron of pure Manchesterthum, the grandfatherly policy, intended to save the prodigal from his own extravagant follies, was needed so that the rising land market and the facile credit available may not prove the cultivator's own undoing. He has been trained to use the land as a sacred trust in the interests of his family and of the community.

FAMILY BUDGETS

Unfortunately, as Sir Vishveshvaraya's Indian Economic Inquiry Committee has found, we have not materials before us for the intensive study of family budgets which Le Place made available in France or which Engels in his intensive and extensive studies of workmen's budgets exploited for interesting deductions for social reform. I have tried to collect details of family budgets in my district.

The harvest garnered so far is far from satisfactory, but it yields enough detail to indicate prevalent tendencies. Roughly put, Engels divided a family budget into expenditure on

- (1) Food.
- (2) House rent.
- (3) Clothes.
- (4) Light and fuel and other operative services which greased the wheels of a householder's life.
- (5) Higher life including expenditure on education, religion and saving.

Roughly, the average expenditure of a working class family in the late fifties in Europe on item one was 55 per cent; 18 on two; 16 on three; 6 per cent on four; 5 per cent on five. According to Engels, the poorer a family the larger the proportion of the expenditure on bare subsistence. In short, the proportion of the income spent on food was an unfailing index of the material well-being of a community. In Belgium the expenditure under the five heads was 67, 11, 13, 6, 3. In America it has been 43, 18, 13, 6, 20. In the rural areas of the unprogressive eastern districts of the United Provinces where I analysed the family budgets, I found that the proportion varied a great deal. The percentage on food was below 50, but everywhere Engels' generalisation was falsified in so far as he wrote that the lower the percentage spent on food the higher the material prosperity. A lower percentage was found to be spent on food not out of choice but of necessity, and expenditure on food was not the first charge.

There was next to no expenditure on house rent, little on clothes, none on higher life, everything was swallowed up by food and operative services. In the latter I have included expenditure on marriages, births and deaths, also expenditure on litigation and interest on loans. The cultivator thinks that

the wheels of his household will get clogged without this lubrication even if it has to be administered at the expense of the internal lubrication of his own bodily machine. His avidity for long distance places of pilgrimage has grown with the growing facilities of rail borne journey. The legal system has whetted his gambling instinct. He indulges in litigation all the time with a pathetic Micawberian belief that "something may turn up."

The system of marketing is wasteful of time and puts the article in a market of restricted demand so that he does not get the best return for his output. It is only when we turn to the *nouveaux riches* amongst the lower middle class or the landless man that we find there is comparative freedom from debt and expenditure of about half of the income on food. Sometimes where some enterprising members of the family have migrated and taken up service in the metropolitan towns of Bombay, Calcutta or Rangoon, the family at home can afford to spend a fair amount on necessities. In Sultanpur, an eastern district of the United Provinces, I found that remittances from abroad contributed a large share of the Government revenue.

Where does all this hard cash, saved by the up-country-man, whose standard of life has been a by-word for squalor in his adopted cities, go? Not certainly absorbed in the family and reappearing by syphonic action in increased stock of decencies relieving the devastating emptiness of his home, but in premium paid for adding an acre to the family land or securing the acceptance of the hand of a daughter in a family higher in social status than one's own. He does not buy an oil engine that would be his standby in case his bullock power failed. He does not rebuild his house with an idea of keeping dampness,

darkness and smoke out of it. He does not deposit his money in a credit society for the rainless day. He does not add a milch cow that would give vitaminous ghee to his growing urchins. The idea of controlling population, by methods other than moral restraint, has not yet been woven in the web of Indian life. As a matter of fact it has been considered distinctly dysgenic. Life has not been made sufficiently secure from death to make the acceptance of Malthusianism a question of more than academic interest.

REMEDY

The remedy lies in the reëducation of his ideals and in changing the orientation of his outlook. Societies for rural reconstruction and for fostering rural solidarity are needed. Panchayats have been started with the object of securing compulsory arbitration of disputes or framing sumptuary laws to restrain expenditure in maintaining false notions of family prestige. Land has to be dethroned from its high pedestal to be put in its proper place in the rural economy as an instrument of wealth production and thereby emancipate the land-astricted cultivator from the thralldom of a fetish. Diversity of occupation has to be provided for a full and varied life. His economic manumission requires

that all his eggs should not be put in one basket and the present lack of alternative occupations to occupy him industrially in case of failure of crops has to be remedied.

Conditions in the towns are to be improved to entice the enterprising villager to seek a settled career in industrial pursuits and a more intelligent, a more intensive and a more resourceful use has to be made of land for purposes of producing increasing quantity of food for men and cattle. It is in the direction of coöperation that we have to look for the new organon that would supply the lever for raising the standard and the struts that would sustain it. It is the only matrix in which life has to be cast if Engels' "operative services" are not to make a heavy inroad on the family budget.

The tug of war between nature and morality which Huxley has emphasised in his *Evolution and Ethics* has its replica in the pitching of man against drought on the physical and of the individual against custom in the social plane. The panacea lies in training malevolent intractable nature to be the beneficent servitor of the grain producer and in "mutual aid" which while putting man above want would enable him to maximise utilities and minimise wastes in working the family machine.

Industry and Commerce

By SIR LALUBHIA SAMALDAS, KT., C.I.E.

Director of various joint-stock companies; President, Indian Industrial Conference, 1913; and of the Indian Economic Conference, 1925; Member, Bombay Legislative Council, 1910-20; Member of the Council of State, 1921-25; temporary Revenue Member of the Bombay Government

THERE is sufficient evidence in the Vedic hymns addressed to Varuna, the Ocean God, to show that in the Vedic times, that is many, many centuries before the Christian Era, the Aryans of India had ships of their own and that these ships were plying on the high seas for the purpose of carrying on the produce of India to Foreign countries. Coming to later times, we have the authority of Chánakya, the Sage Minister of Chandragupta, for saying that India was carrying on a fairly large amount of trade and commerce with Foreign countries. Although the Arthashastra of Kautilya (Chánakya) does not give any statistics and their absence in later accounts is a handicap to students of economical conditions of ancient India, it is easy to infer from internal evidence that the trade at that time consisted mainly of manufactured Indian goods.

Recent discoveries connected with Greater India show that even now there are relics of Indian Architecture—Hindu and Buddhistic—in Java, in portions of China and in eastern Asiatic islands. It appears, from the articles contributed by the various scholars, that India sent out missionaries to teach her religion and culture to these Foreign lands long long ago. Trade followed in the wake of these missionary efforts. This reversal of the modern order of trade preceding the missionary might be due to the fact that the Aryans of India gave greater importance to spreading their spiritual

knowledge than to expansion of their trade. This is in marked contrast to the present Western method of colonization, wherein more attention is paid to material expansion than to spiritual development. In the twentieth century, India is also learning to follow European methods, as evidenced by India sending out recently a deputation of Representatives of the Cotton Manufacturing Industry to open new markets for the wares of Indian Cotton Mills in Foreign countries.

EARLY TRADING

In spite of the dearth of statistical information in old records, English writers of the history of ancient India give us some idea of the nature of exports in those days. Mr. Thornton in his book *Description of Ancient India* says:

Ere the pyramids looked down upon the valley of the Nile, when Greece and Italy, those cradles of European civilization, nursed only the tenants of the wilderness, India was the seat of wealth and grandeur. A busy population had covered the land with the marks of industry; rich crops of the most coveted productions of nature annually rewarded the toil of the husbandman. Skilled artisans converted the rude products of the soil into fabrics of unrivalled delicacy and beauty. Architects and sculptors joined in constructing works, the solidity of which has not, in some instances, been overcome by the evolution of thousands of years. The ancient state of India must have been one of extraordinary magnificence.

That this statement is no exaggeration is borne out by various other writers. Not only were Indian Products exported to the Eastern Countries, but they were also being exported to East Africa many centuries back. Cotton manufactures formed a large part of those exports. This is recognised on all hands, but it is sometimes forgotten that India had many other industries besides that of manufacturing cotton. The late Mr. Justice Ranade in his book on Indian Economics referring to the development of Iron industry in the country says:

The Iron industry not only supplied all local wants, but it also enabled India to export its finished products to Foreign countries. The quality of the material turned out had also a world-wide fame. The famous iron pillar near Delhi, which is at least fifteen hundred years old, indicates an amount of skill in the manufacture of wrought iron, which has been the marvel of all who have endeavoured to account for it. Mr. Ball (late of the Geological Survey of India) admits that it is not many years since the production of such a pillar would have been an impossibility in the largest factories in the world, and even now, there are comparatively very few factories where such a mass of metal could be turned out. Cannons were manufactured in Assam of the largest calibre.

The very fact that invaders came to India from the time of Alexander the Great, down to Temur and Ahmad Irani through the North West Frontier, show that the riches and wealth of India were well known far outside and that the reports of this wealth drew Foreign invaders who were anxious to share these riches. That India was economically self-contained is borne out by what Dr. Robertson says:

In all ages, gold and silver, particularly the latter, have been the commodities exported with the greatest profit to India. In no part of the earth do the natives depend so little upon foreign countries, either

for the necessities or luxuries of life. The blessings of a favourable climate and fertile soil, augmented by their own ingenuity, afford them whatever they desire. In consequence of this, trade with them has always been carried on in one uniform manner, and the precious metals have been given in exchange for their peculiar productions, whether of nature or art. In all ages, the trade with India has been the same; gold and silver have uniformly been carried thither in order to purchase the same commodities with which it now supplies all nations; and from the age of Pliny to the present times, it has always been considered and execrated as a gulf which swallows up the wealth of every other country, that flows incessantly towards it, and from which it never returns.

The eyes of the Dutch, Portuguese, French and English Nations were turned toward India on account of her reputed wealth and of the vast collection of her priceless jewels.

INDUSTRIAL DEVELOPMENT

Till the advent of the British in India, that is, up to the eighteenth century, India held the first place amongst other Nations as regards her industrial development and her trade and commerce with Foreign countries.

Sir Thomas Munro referring to the economic, social and cultural condition of India in his time says:

But if a good system of agriculture, unrivalled manufacturing skill, capacity to produce whatever can contribute to either convenience or luxury, schools established in every village for teaching reading, writing and arithmetic, the general practice of hospitality and charity amongst each other, and, above all, a treatment of the female sex, full of confidence, respect and delicacy are among the signs which denote a civilized people—then the Hindus are not inferior to the nations of Europe, and if civilization is to become an article of trade between the two countries, I am convinced that this country (England) will gain by the import cargo.

BRITISH CONTROL

The two things that thereafter killed Indian industries were (1) the invention of steam power and (2) the calculated policy of Britain to kill Indian industries and to convert her into a big market for her own manufactures. Authorities are not wanting to show that all sorts of measures were adopted to achieve this end. Since 1858, when the British Crown took over the control of Government from the East India Company, the Government of India have till very recently followed the policy of free trade which was good for Britain but which was and is not acceptable even to her colonies or dominions. As a result of this policy India has become more and more an agricultural country and less and less an industrial one.

In this connection, I cannot do better than quote some of the remarks of Sir Ibrahim Rahimtoola from his Presidential speech at the 1927 Session of the Indian Industrial and Commercial Congress. After a very long period of public service both in the Local and Imperial Council, Sir Ibrahim was appointed a Member of the Executive Council of the Government of Bombay. During the period of Councillorship, he was asked to work as President of the Fiscal Commission appointed by the Government of India. After he left office, he was first nominated and then elected President of the Reformed Legislative Council of Bombay. He has been connected with various industries and Banks and is thus best fitted to form an independent and unbiassed opinion on this important subject. Says Sir Ibrahim:

To any one who has taken any interest in the public life of the country, there is only one answer; that answer is that Britain has throughout been primarily concerned with maintaining the Indian market for her

manufactures. Her political power has been used for the promotion of this object. The small band of merchant adventurers who came out to India, we are told, intended to carry on a lucrative trade. The political power which they acquired was used by the East India Company for this purpose.

After referring to the transfer of direct control over India from the East India Company to the Crown of Britain, Sir Ibrahim says that in spite of such transfer the orders of the Secretary of State for India remains the same as that of the East India Company. What that policy is he explains in the following terms:

The concern of our trustees seems to be to obtain all the revenues that they may acquire for carrying on the administration of India and to sell to India increased quantities of her manufactured goods. Britain does not appear to have applied her mind to the development of the economic resources of this country. All that she has been concerned with has been the immediate sale to India of increased quantities of her manufactured goods. She imposed upon India, I dare say in the conscientious discharge of her "sacred trust," a policy of free trade, to which her own Dominions, let alone other civilized nations, refused to subscribe.

Similar opinion is expressed by the Rt. Hon. Sir W. Joynson Hicks, Home Secretary in the present British Cabinet. In one of his speeches he was frank enough to say:

We did not conquer India for the benefit of the Indians. I know it is said in missionary meetings that we conquered India to raise the level of the Indians. That is cant. We conquered India as the outlet for the goods of Great Britain . . . I am not such a hypocrite as to say we hold India for the Indians. We hold it as the finest outlet for British goods in general and for Lancashire Cotton goods in particular.

Sir Ibrahim then gives his opinion as to what the duty of a Civilized Government should be and how far the Gov-

ernment of India have carried out this duty in the interest of the millions of India.

Every Civilized Government in the world considers it its first duty to raise the economic resources of its people and increase its national wealth. It is true that some spasmodic efforts have been made by the Government of India to promote the economic interests of the country. They have constituted several commissions to examine various aspects of this question. We have had an Industrial Commission, a Railway Commission, two Currency and Exchange Commissions, one Fiscal Commission and now an Agricultural Commission. The economic problem may be subdivided into the subjects entrusted for examination to each of these Commissions, but it is hardly possible to reach satisfactory conclusions and carry out a broad economic policy by piecemeal examination of the problem.

The Fiscal Commission recommended a policy of discriminative protection, and the Government of India accepting that recommendation appointed a Tariff Board to examine in the first instance the claims of Iron and Steel Industry (a key industry) to protection. The Tariff Board under the Chairmanship of the present Commerce Member of the Government of India, Sir George Rainey, made exhaustive enquiries and recommended certain import duties and subsidies. Be it said to the credit of Lord Reading and his Commerce Member Sir Charles Innes, that they accepted the proposals of the Tariff Board and submitted to the Central Legislature and carried through the same a Tariff Bill based on those recommendations. The Iron and Steel Industry is now established on a sound basis and within a few years India will produce more than 50 per cent. of her Steel requirements. Similarly the Excise Cotton Duty levied under order from Lancashire through the Secretary of State has also been

abolished. It can be seen from these acts of the Government of India that they have given up the old policy of pure Free Trade and Laissez Faire, and are prepared to help according to their lights, the industrial development of the country.

ECONOMIC CONDITIONS

The Representatives of the Government of India, to the Economic Conference held in Geneva in May 1927, submitted to the Conference a note on the present economic conditions of this country. In a prefatory remark they say that India is

A debtor country in the sense that British and Foreign Capital is invested in her Railways and Irrigation Works and in some of her industries in excess of her own investments abroad.

The fact of India's indebtedness and of her having to remit interest thereon every year to Britain and other creditor countries, necessitates her exporting "Every year goods to a higher value than the value of her imports."

The favourable balance of trade is really a balance of her visible trade. To secure this balance she must have a surplus production over and above the quantity wanted for consumption within the borders of the country. If she cannot produce a sufficient quantity to meet both these calls, her own inhabitants will have to be starved to enable her to pay regularly her interest charges for the purpose of maintaining her credit. The same note of Government of India's representatives says:

Agricultural exports of India, which in one form or another constitute nine times of her total exports, represent at the same time only one eleventh of her total production.

Such a statement would lead one to believe that the remaining (ten-elevenths) agricultural produce is more than sufficient to feed and clothe and

provide the necessities of life of the vast population of India.

Unfortunately this is not the case as has been proved by Professor Shah and Mr. Khambatta in their book, *Wealth and Taxable Capacity of India*. According to these authors the total of India's produce is not sufficient even for the requirements of her own people. That statement has not yet been contradicted and till that is done it must be accepted as a correct representation of the existing state of things.

The serious gap between the prices of raw materials and of manufactured goods which occurred during the post-war period had an important bearing on India's trade. A greater productive effort was necessary to enable India to purchase the same value of imports as pre-war.¹ What did actually happen in 1924 and 1925 was that "exports increased (by comparison with pre-war) while imports were relatively less."¹ Till some equilibrium is again maintained between the costs and profits of producers and manufacturers, India and countries mainly producing raw materials will be forced either to curtail their purchase of manufactured goods, at the expense of their general standard of life, or, alternatively, to provide more and more for themselves those commodities which they have hitherto found it convenient to draw from abroad.¹ The first alternative means improvement in agricultural methods and in marketing facilities, while the second alternative means industrial development to meet the growing needs of the country. A Royal Commission on Agriculture has been appointed by Government to make enquiries and suggest reforms regarding the former, while very little is done as regards the second alternative

excepting the creation of a Tariff Board. This is quite in keeping with the century-old policy of making India producer of raw materials and consumer of foreign manufactured goods.

BANKING SYSTEM

The Trade and Industries of a country are dependent to a great extent on the Banking facilities existing in the country at the time. The indigenous system of Banking consisted of an individual shroff or banker for each City and large town, and of a Sowcar who combined the duties of a banker and a merchant in each small town and large village. In pre-British time there was no Joint Stock Company's Act, nor a State or a Joint Stock Bank. After the assumption of the Government of India by the Crown, there came into existence the old Presidency Banks, each for the Capital of the Presidency of Bombay, Bengal and Madras. These Banks have recently been amalgamated, and an All India Bank called the Imperial Bank has been constituted as a result of the amalgamation. English, and later, other Foreign Banks established Branches in Presidency Towns. It was only in the present century that pure Indian Joint Stock Banks were established in various important centres of Trade and Commerce. Some of these Banks came to grief about 15 years back, either because they went in for speculation or because they were not efficiently managed on correct Banking lines and in a few cases because their management was not honest. It has been alleged at least in the case of one Bank failure that it was due more to unfair competition and hostile attitude of the then existing Presidency and Foreign Banks and less to its industrial activities. The following tables show the growth of these different types of Banks from 1913 (pre-war year) to 1925.

¹Report of the Members of India submitted to the International Economic Conference of 1927. Pages 19 to 21.

TABLE I—PRESIDENCY BANKS AND THE IMPERIAL BANK OF INDIA

31st December	Capital	Reserve and Rest	Government or Public Deposits	Private Deposits	Proportion per cent. of Government Deposits (Column 3) to		Cash Balance
					Total Capital and Deposits (Column 1 to 4)	Private Deposits Column 4)	
	1	2	3	4	5	6	7
	Rs. (1,000)	Rs. (1,000)	Rs. (1,000)	Rs. (1,000)	Per Cent	Per Cent	Rs. (1,000)
1913 (pre-war year)	3,75,00	3,73,07	5,88,66	36,48,50	11.8	16.1	15,37,75
1914	3,75,00	3,89,17	5,61,52	40,04,08	10.5	14.0	20,83,92
1915	3,75,00	3,72,50	4,88,67	38,61,19	9.6	12.7	14,65,24
1916	3,75,00	3,60,99	5,20,58	44,70,87	9.1	11.6	17,27,25
1917	3,75,00	3,67,52	7,71,28	67,71,74	9.3	11.4	33,77,31
1918	3,75,00	3,44,58	8,64,28	50,97,75	12.8	16.9	17,07,62
1919	3,75,00	3,57,81	7,72,24	68,21,37	9.3	11.3	23,62,93
1920	3,75,00	3,77,79	9,02,63	78,01,90	9.5	11.6	26,03,34
1921	5,62,24	4,14,54	6,80,01	65,77,99	8.3	10.3	13,60,23
1922	5,62,50	4,33,07	14,15,73	57,00,57	17.4	24.8	15,07,47
1923	5,62,50	4,55,21	8,56,94	74,19,51	9.2	11.5	15,01,34
1924	5,62,50	4,80,08	7,50,26	76,71,22	7.9	9.9	15,60,26
1925	5,62,50	4,92,73	5,46,44	77,83,33	5.8	7.0	17,46,82

TABLE II—EXCHANGE BANKS

	Number of Banks	Capital, Reserve and Rest	Deposits in India	Cash balance in India
		£(1,000)	£ (1,000)	£ (1,000)
1913 (pre-war year)	12	37,825	31,035	5,882
1914	11	36,972	30,148	8,394
1915	11	36,793	33,546	7,601
1916	10	37,931	38,039	10,140
1917	9	32,682	53,375	33,744
1918	10	39,449	61,856	15,175
1919	11	53,070	74,359	29,983
1920	15	90,217	74,807	25,175
1921	17	111,632	75,196	23,567
1922	18	112,221	73,384	16,176
1923	18	140,103	68,443	14,479
1924	18	130,464	70,635	16,367
1925	18	138,311	70,546	9,416

TABLE III—INDIAN JOINT-STOCK BANKS

	Class A				Class B			
	Number of Banks	Capital and Reserves	Deposits	Cash balances	Number of Banks	Capital and Reserves	Deposits	Cash balances
		Rs. (lakhs)	Rs. (lakhs)	Rs. (lakhs)		Rs. (lakhs)	Rs. (lakhs)	Rs. (lakhs)
1913 (pre-war year) . .	18	3,64	22,59	4,00	23	50	1,51	25
1914	17	3,93	17,11	3,53	25	55	1,26	28
1915	20	4,38	17,87	3,99	25	55	91	20
1916	20	4,61	24,71	6,03	28	63	1,01	17
1917	18	4,67	31,17	7,65	25	54	99	20
1918	19	6,02	40,59	9,40	28	63	1,55	37
1919	18	7,63	58,99	12,17	29	75	2,28	54
1920	25	10,92	71,15	16,31	33	82	2,33	42
1921	27	12,40	76,90	15,66	38	1,00	3,26	44
1922	27	10,64	61,64	12,04	41	1,11	3,38	56
1923	26	9,73	44,43	7,37	43	1,11	3,26	61
1924	29	10,71	52,50	11,30	40	1,07	2,67	34
1925	28	10,60	54,49	10,10	46	1,18	3,42	68

	Population (Millions)	Total Number of Societies	Total Number of Members of Primary Societies	Total Working Capital in 1,000 Rupees	Number of Rupees per Member of Primary Societies	Number of Rupees per Head of Population
British India	245.2	69,016	2,669,087	5,30,067	199	2-3/16
Indian States	33.9	11,166	388,938	45,972	118	1-6/16
Total	279.1	80,182	3,058,025	5,76,039	188	2-1/16

The total deposits of these classes of Banks have increased during the last decade from 114 to 212 Crores. Out of these totals the Imperial Banks' share is 40 per cent., that of the Exchange Banks 33 per cent. and that of the Indian Joint Stock Banks 27 per cent. only. All these Banks mainly serve principal Cities and large Towns. They have not been able to go even to all large Towns and necessarily not to ordinary Towns or large villages. Constituted as they are, it is not possible for them to render any assistance in providing Banking facilities to the

Townsmen and villagers. These Joint Stock Banks are of the English or Scotch type, that is, they help Trade and Commerce only, but do not directly finance industries nor agriculture, except in very few cases. One Industrial Bank was started during the boom period and though it was also doing ordinary Banking business, yet for various reasons—chiefly that of slump in trade in post-war period—it had to amalgamate itself with a going indigenous Joint Stock Bank.

Agriculture is being financed to a certain extent by Coöperative Banks

which came into existence after 1904 in which year the Government of India put on the Statute Book the Coöperative Credit Act. That movement has made very good progress during the last two decades,—thanks to the sympathy of the officials selected as Registrar of Coöperative Societies and to the keen interest taken in the development of the movement by a band of selfless, non-official workers. Both these agencies have on the whole worked harmoniously; and if they continue to do so, the movement with the help of the Land Mortgage Banks that are gradually coming into existence will solve to a large extent the problem of Agricultural finance. The attached statement gives the figures showing the position of these Banks and Societies at the end of 1925. It will be seen from the statement that the amount of Working Capital per member is merely sufficient to provide Capital for Agricultural operations of a member, but is not sufficient to assist the Agriculturist to introduce improvements in the methods of cultivation or to reduce his existing debts. For the latter purpose establishment of Land Mortgage Banks is absolutely necessary. A few small Banks of this type have been started and their progress is being carefully watched. If they work successfully, larger Banks, probably one for each province, will have to be started, and then the country may reasonably hope for the removal of agricultural indebtedness to a large extent.

Agriculture and Industry are so interdependent that it is hardly possible for an advance in one without a corresponding advance in the other. In India very little attention was paid by Government, even to the development of either, till the beginning of this century. The great famine of 1899–1900 opened the eyes of the Government to the necessity of taking some action

to help Agriculture. The Famine Commission, the Irrigation Commission and the Coöperative (Sir Edward Low's) Committee all owe their existence in a sense to that Famine. The recommendations of these bodies have to a certain extent been accepted and acted upon by Government, and Agriculture has so far benefitted to that extent.

As regards Industry, an Industrial Commission was appointed as a result of the insistent demand of non-official members of the Imperial Legislative Council. Practically no action was taken on the recommendations of that Commission, partly because the country was still involved in the Great War and also because the Government of India of that day did not believe in the necessity of assisting indigenous industries, which might lead to competition with England. A few years later the Government of India appointed another Commission, the Fiscal Commission. The unanimous recommendations of this Commission were in the main accepted by Government and the Central Legislature. As a result of the resolution adopted by the Legislative Assembly, a Tariff Board was constituted to make enquiries into the existing condition of a particular industry, its prospects for the future, and make recommendation for strengthening it. The first industry to be referred to this Board was the Iron and Steel Industry, and the recommendations of the Tariff Board were—be it said to the credit of the then Government of India—accepted, and the Industry saved by the adoption of measures recommended by the Tariff Board. Later on the recommendations of the Board were not treated with the same courtesy and respect as those of the first Report of the Tariff Board. This may be due either to a change in the angle of vision of the present Government of India or

to a lack of confidence in the Tariff Board as constituted at present. Whatever the reasons, the results are unfavourable to the development of indigenous industries.

The Department of Commercial Intelligence and Statistics is publishing a weekly Trade journal, a few monthly statements and several annual journals of Statistics about Trade, Agriculture, Prices and Wages, Cotton Mills, etc. The annual review of the Trade of India contains comparative figures of imports and exports with reasons of the fluctuations therein. I append herewith a copy of the Chart relating to the Foreign Sea Borne Trade of India during the sixty years (1864-69 to 1919-24) by quinquennial averages. It will be seen therefrom that while the gap between exports and imports during the War-period was much greater than any preceding five years, the gap is much smaller in the last five years, and is actually smaller than it has ever been during the last 30 years. The result is due to an equilibrium not being maintained between the costs and profits of producers and manufacturers as has been shown by the Indian representatives to the Economic Conference held in Geneva in May 1927.

During the year 1926-27 the total exports of merchandise amounted to 309 crores which was 76 crores less than the value of exports in the preceding year. This large reduction is attributed by the Compiler of Statistics to the "heavy fall in the world prices of raw materials, particularly of cotton and jute." The official Compiler does not refer to the effect on the prices of the Rupee being fixed at 1 s. 6 d. against the almost unanimous demand of the intelligenzia of the Country to have it fixed at 1 s. 4 d. The protagonist of the latter ratio based their demand for the same on various grounds, not the least important of

which was that the higher ratio was penalizing the Agriculturist by artificially keeping the export prices lower than what they would have been if the ratio had been fixed at the pre-war figure of 1 s. 4 d.

While the exports show a decrease of 76 crores, the imports show a small increase, the actual figure for 1925-26 and 1926-27 being 226 and 231 crores. The most important of these were Cotton manufactures, which formed 28.15 per cent. of the total imports and came to 65.05 crores. It is interesting to note in this connection that the Cotton exports during the same period amounted to 58.60 crores. In the preceding year the figures of the value of cotton exported and cotton manufactures imported are still more striking, the former being 94.99 crores and the latter being 64.54. If the Cotton Mill Industry had received the support of the Government, which it has every right to claim as the Premier Indigenous Industry, India would have manufactured cotton goods from the cotton exported and would have found employment for a large number of skilled workmen. At present she pays the Foreign workmen and also is mulcted as regards the steamer freight, either one way or both ways.

Metals and ores occupy the second place of imports, the amount and percentage of the total imports being 23.85 crores and 10.31 per cent. respectively. The third important article of import is Sugar, the figures of the value of import and percentage to the total imports being 19.16 crores and 8.28 per cent. India is capable of supplying the requirements of its Citizen as regards Sugar. The Sugar Cane grown in the Country was till some years back converted into Gur or Jaggery. A few factories for refining this Gur and manufacturing white sugar were put up in Bihar, U. P., and Madras. Later on, plants were

put up for crushing sugar cane and manufacturing sugar direct from the cane juice. As many of these factories found difficulties in not getting a regular cane supply, and in facing competition from Java and Mauritius, a Commission was appointed by the Government of India to make enquiries in the matter and submit their recommendations.

The Commission's report has practi-

cally been pigeon-holed as has been often said by one of the members of the Commission Hon. Sir Jogendra Sinh—from his place in the Council of State. The same apathy of the Government is visible as regards this industry as in the general industrial development of the Country. The other articles of import in order of their importance with their values and percentages are given below:

IMPORTS

(In Thousands of Rupees)

	1926-27	Percentage of Proportion to Total Imports of Merchandise in 1926-27
Machinery and millwork	13,63,14	5.89
Oils	9,18,78	3.97
Vehicles	6,39,93	2.77
Provisions and oilman's stores	5,50,49	2.38
Hardware	5,06,62	2.19
Silk raw and manufactures	4,59,71	1.99
Wool raw and manufactures	4,46,36	1.93
Instruments, apparatus and appliances	4,01,18	1.73
Liquors	3,52,86	1.52
Railway plant and rolling stock	3,26,24	1.41
Spices	3,12,29	1.35
Paper and pasteboard	3,08,20	1.33
Tobacco	2,56,11	1.11
Glass and glassware	2,52,88	1.09
Chemicals	2,44,35	1.06
Dyes	2,13,23	.92
Rubber	2,10,96	.91
Drugs and medicines	2,06,60	.89
Apparel	1,77,87	.77
Fruits and vegetables	1,61,76	.70
Soap	1,52,41	.66
Paints and painters' materials	1,44,23	.62
Salt	1,26,20	.55
Building & engineering materials	1,23,91	.54
Haberdashery and millinery	1,13,41	.49
Precious stones and pearls, unset	1,06,99	.46
Grain, pulse and flour	91,69	.40
Earthenware and porcelain	82,82	.36
Stationery	81,96	.35
Belting for machinery	81,29	.35
Matches	75,09	.32

Amongst manufactured articles of Export the most important position is that of Jute manufactures which came to 53.18 Crores out of the total of 301.43 Crores, i.e. 17.64 per cent. This industry was till very recently a monopoly of Englishmen and received greater sympathetic treatment than that of Cotton manufacture. The other articles of Export are given below in order of their importance:

EXPORTS
(In Thousands of Rupees)

	1926-27	Percentage of Proportion to Total Exports of Merchandise in 1926-27
Jute raw	26,78,04	8.88
Cotton, raw and waste	59,14,19	19.62
Cotton manufactures	10,74,85	3.57
Grain, pulse and flour	30,24,90	13.02
Tea	29,03,77	9.63
Seeds	19,08,77	6.33
Leather	7,37,69	2.45
Metals and ores	7,20,86	2.39
Hides and skins, raw	7,17,55	2.38
Lac	5,47,24	1.82
Wool, raw and manufactures	4,68,28	1.55
Rubber, raw	2,60,14	.86
Oilcakes	2,52,76	.84
Opium	2,11,85	.70
Paraffin wax	1,84,60	.61
Wood and timber	1,62,04	.54
Spices	1,55,97	.52
Coffee	1,32,63	.44
Manures	1,25,40	.41
Dyeing and tanning substances	1,17,72	.39
Mica	1,08,41	.36
Fodder, bran and pollards	1,06,25	.35
Tobacco	1,04,15	.35
Coir	99,85	.33
Oils	95,71	.32

Money Reconstruction in India (1925-27)

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IN referring to the work of the various Currency Commissions of India, Mr. Keynes has observed that Indian Currency can always find some new aspect with which to interest and instruct the student of Economics. As he has put it, the Chamberlain Commission dealt profoundly with the problem of a large temporary adverse balance of indebtedness and prescribed for it effectively; on the other hand, the Babington-Smith Committee was called upon to deal with the problem of protecting India from the excessive rise of prices in sympathy with world prices, of the adjustment of a series of abnormally favourable balance of trade and of a great rise in the price of silver. Mr. Keynes might have added that both these bodies recommended important improvements in the Indian Paper Currency system, and they also restated the principles and improved the practice of the Gold Exchange Standard in India. Indeed it can be safely assumed that had the terms of reference of the Chamberlain Commission been such as to afford it a wider scope, it would have radically improved the pre-war Gold Exchange Standard of India, and would have placed it beyond the criticism that had been so long directed against it.

The Royal Commission on Indian Currency and Finance of 1925-26 enjoyed unique good fortune, both as regards the time of its appointment and its terms of reference, which enabled it to undertake a scheme of general monetary reconstruction and of coördinating the various elements of the Indian Monetary system. The Commission

had also the benefit of the willing and expert coöperation of the Indian Finance Department in the task of overhauling the monetary system; and the memorandum prepared by that Department supplied valuable reviews of the evolution of currency in India and important suggestions as to the task of reconstruction. Equally important was the assistance received from foreign experts on various aspects of currency and banking. But the most important among the circumstances facilitating the task of reconstruction was the development of centralised banking in India under the Imperial Bank of India, and the possibility of creating a Reserve Bank which might be made the pivot and the instrument of currency operations, sale and purchase of gold, remittance business and note issue. Such a pivot was not available to be utilized by the earlier commissions; and, for popularising the idea of centralised banking in India, and for endowing it with worthy associations and traditions, a great deal of credit is due to the Imperial Bank of India.

CRITICISMS

The true criterion and test of the merits of the scheme for monetary reconstruction put forward in the Report of the Royal Currency Commission of 1925-26 is to be found in the large number of controversies about and criticisms of the monetary system of India which would be set at rest and rendered obsolete were the recommendations contained in that Report to be adopted. We possess an extensive literature of the criticism of the older

monetary policy, and almost the whole of that literature would retain only a historical interest were the proposals in the Report carried out. The name of such criticisms is legion; but a few among the leading ones might be selected in order to illustrate the present suggestion.

Thus the former perennial complaints about the amounts and the rates of the sale of Council Drafts, and as regards the question whether such sales checked the flow of gold into India would become matters of the past; for the methods and agency of remittance are going to be changed. Gone also would be the disputes regarding the location, disposition and employment of the Gold Standard Reserve as well as about the discrimination between the employment or functions of that reserve and the Paper Currency Reserve; for the reserves are to be amalgamated. No one would be able even to suggest any further that immense sums were being transferred from India to London needlessly, and that the Indian market was being thus deprived of the use of funds to which it was legitimately entitled. There would also be no room left for the oft-repeated criticism that our monetary system is bringing into existence an extensive token currency which does not enjoy the confidence of the public; because it is proposed to introduce the fullest possible convertibility of the local currency into gold. The scientific critic will no longer be able to deplore the fact that the control of currency and of credit was in separate hands.

It speaks well for the comprehensive monetary scheme advocated in the Report that it will make so much criticism on so many lines irrelevant and inapplicable—and indeed that effect has been felt already. It is very instructive to contrast the numerous

points in the older system against which criticism was directed before the last Commission, with the few and isolated items objected to by the same critics in the Report scheme. In fact, the issues in the currency controversy which has raged recently, and since the publication of the Report, can be narrowed down to two only—the one relating to the Exchange ratio and the other to the constitution of the directorate of the Reserve Bank; for the gold currency is now only an aspiration and is recognized to be outside the range of practical politics in the immediate future. This contraction of the volume and range of monetary criticism might be taken as a measure of the constructive work done by the Commission.

THE CHOICE OF A MONETARY STANDARD

It is best to commence a study of the Commission's scheme of reconstruction by appraising the merits of the system of Gold Bullion Standard which they have recommended for India. A comparison might be instituted between this Gold Bullion Standard and the Gold Exchange Standard *as it prevailed in India before the war*, in order to show the superiority of the new system over the old. Particularly due regard is paid to the requirements of the Indian conditions. The first thing that strikes us in making the comparison is that under the pre-war system the convertibility of the local currency into the international currency was a partial and conditional one. Professor Kemmerer and other scientific critics had emphasized this aspect of our pre-war system. As he put it rather strongly "certainly the Indian business community is justified in wanting the Government to assume this responsibility" for convertibility. The scheme of our report of 1926, however, has

taken away the possibility of this line of criticism because according to it—after the stage of transition is over—“gold bars are to be given in exchange of notes or silver rupees, not for export only but for any purpose.” The allegation, that in the absence of full convertibility for our fiduciary coins the token coinage tended to multiply needlessly and to produce inflation and instability of prices, will then no longer be heard of.

Other important merits of the Gold Bullion Standard might be considered briefly. The proposed obligation upon the currency authority to buy and sell gold will secure that automatic provision for expanding and contracting the currency in which the pre-war system of India was to some extent deficient, owing to the absence of a statutory commitment or obligation to redeem rupees in gold on demand. Moreover, under the older *régime*, the rupee was said to be “in reality linked to the sterling only, and the system ceased to be a gold exchange standard as soon as sterling depreciated.” The new scheme, by introducing the obligation to buy and sell gold for rupees without limit, will base the rupee firmly on gold, in a manner that is conspicuously visible. Further, the principle will be established that gold is the standard of Indian currency. That also removes the grounds for the former allegations that the monetary standard of India was not an independent standard but a dependent or parasitic one. Thus, it was alleged that “it is not a monetary system but a connecting link between an isolated market and the broader market to which it looks for support.” That allegation could scarcely be sustained even as regards the older monetary system of India; but it could not possibly be made as regards the Gold Bullion Standard.

While there is not, from the point of

view of monetary theory, much difference between the Gold Bullion Standard and the *ideal* Gold Exchange Standard, there is yet a significant and practically important difference in the *mechanism* of working of the two systems. The difference lies, to use the words of Sir J. Brunyate,

in the use of gold as the ultimate medium of international adjustments as distinguished from a mere undertaking to provide unlimited external credits.

In a word, while the older system depended in case of reverse remittance on the use of credits abroad, the Gold Bullion Standard relies upon gold exports. So much about the reverse remittance; in the case of a favorable balance of trade, too, the advantage is with the latter standard which ensures an export of gold from the debtor country or countries and consequently a fall of prices there. The result is that the new currency which is added to ours in such a case not only raises prices in India but lowers them abroad. Thus, as regards the adjustments of international price levels the Gold Bullion Standard has all the merits claimed for the gold standard.

Again, as developed in India the system of Gold Exchange Standard was at the mercy of abnormal fluctuation in the price of silver. Sometimes, indeed, the effect of the rise in the price of silver was catastrophic as was shown after the year 1917. This great danger must continue to hang like a sword of Damocles over India's monetary system as long as the rupee coinage maintains its predominance in the country; and the resulting obligation for the conversion of notes into silver rupees necessitated a large holding of silver in the Paper Currency Reserve.

The Report of 1926 has tried to remove this great danger from silver by two strokes of monetary policy. It recommended in the first place that

"no legal obligation for conversion into silver rupees should attach to renew notes." In the second place, while it recognised that it is incumbent in practice to make rupees and other coin available to the public when demanded, it impliedly recommends that "the coinage of rupees should be stopped for a long time to come until the amount of silver rupees in circulation is reduced to the amount required for small change." The prosecution of this policy is rendered possible by the existence of the large amounts of silver coinage in the reserves and in the hoards. The dominance of the rupee is to be gradually weakened in order "to get rid of the threat to the currency inherent in the possibility of a rise in the price of silver." Moreover, as the rupees in the reserve are transferred to the public, gold resources could be made to take their place as is necessary for a country going to be on a gold standard.

Thus the recommendation averts not only the danger from fluctuation in the price of silver but that arising from any considerable extension of the token currency.

In the light of these merits of the Gold Bullion Standard and of the monetary scheme presented by the Report, one can easily understand why the suggestion received the blessing of able writers like Professor Cannan and Sir Stanley Reed who had been hitherto advocating the introduction of a gold currency into India. The fact seems to be that the publication of the Commission's proposal has cut the ground from under the advocacy of a gold currency and has rendered obsolete and relegated to the past, many of the arguments formerly advanced on behalf of such currency. Thus, from Sir James Begbie downwards, the champions of gold currency had argued that, owing to the want of

full convertibility, there has been both a lack of confidence in the rupee and a great encouragement of the hoarding habit.

Another argument that had been repeatedly urged was that a gold standard with gold currency was much more automatic than the pre-war monetary system of India. It used also to be urged that under the pre-war system gold was not freely allowed to reach India but was intercepted by the sale of councils. These arguments would entirely lose what force they once might have had, on the introduction of the Gold Bullion Standard, which will bring with it the most ample convertibility, as well as the obligation on the currency authority, to buy gold as well as to sell it without regard to the purpose for which it might be required.

DIFFICULTIES OF WORKING THE STANDARD

The advocates of gold currency in India seemed to minimise both the difficulties of working that standard in India and the cost of introducing into the country. Let us examine the difficulties of working the standard. These difficulties are due to the hoarding habit assisted by the large and sudden demands for currency made by our foreign trade during favorable seasons. As Dr. Sprague argued before the last Currency Commission, if when balances are favourable and gold is coming in, a considerable proportion of it is hoarded away, it would not have the usual influence on prices as in other countries. Nor can we be sure, when the balance is unfavourable, how much of the gold thus hoarded will leave the hoards to be exported. Instead of gold flowing out of the hoards at such times it might have to flow out of the banks for export—thus causing a strain on the banking machinery. It is clear that

the working of gold standard with gold currency must be adversely affected by abnormal influences in a country where hoarding prevails. Dr. Sprague might have added that these influences together with the arbitrary flowing of gold into and out of hoards, would make the working of such a standard in India erratic and would bring about instability of prices. Indeed, when gold exchange standard in India has been blamed by Professor Nicholson and others as causing instability of prices, they are transferring to that standard a share of the blame merited by the hoarding habit.

The cost of introducing such a gold currency into India has also been minimised by the protagonists of a gold currency. Indeed, sometimes it has been even contended that the cost will be *nil*, and that we have only to open a gold mint and to leave the introduction of the gold currency to the action of favourable balances of trade. Those who argue thus forget that if and when a gold currency is to be introduced we shall have to strengthen our gold reserves considerably in order to meet the demand for coinage, as well as the demand for gold, for non-monetary purposes; for there is no reason to expect that the present non-monetary demand for gold will be suddenly and materially reduced on the introduction of a gold currency. But, besides meeting these monetary and non-monetary demands, there should be enough gold left in the reserves to maintain the confidence of the public in our currency system.

Because in the absence of the necessary redeemability of our rupees and notes into gold coin the latter would go to a premium and might cease to circulate. But on all these accumulations of gold in our reserves the country will have to pay interest. Other alternative elements in the cost of introducing

gold currency are also sometimes lost sight of. As Professors Cannan and Gregory propose before the Commission, we might have to restrict or "starve" the volume of other kinds of currency in order to pump in the gold currency. But that implies that a part of the cost of introducing the gold currency is to be shifted on to the business circles in India in the shape of persistently high rates for money. There remains another very substantial part of the cost to be borne by all those who possess silver ornaments or hoards in India and here we have also to consider the resulting social injustice. For the introduction of gold currency into India will undoubtedly result in a great fall in the price of silver; the social injustice involved in such a reduction of the value of the savings of the poorer classes will be very great. Taking all these elements of the cost together we might be sure that India will have to pay a pretty heavy price for the luxury of a gold currency.

But for the present India has recognised the impossibility of introducing a gold currency. The so-called stock of "free gold" in America is obviously not available for the purpose of supplying a gold currency to India and consequently any immediate introduction of such a currency has been felt to be out of the question. Nor would it be in the interest of India itself to draw largely upon the gold stock of the world and thus to help to usher in an era of low world prices. But, though the idea of an effective gold currency in India has been at least postponed, for many years to come, the old hankering after gold currency remains and manifests itself in illogical and ineffective projects like those of coining steadily small quantities of gold, or of retaining the sovereign as legal tender, or of having an over-valued or token gold coin. It is scarcely necessary to criti-

cise such proposals at great length. As long as the sovereign (or any local gold coin) is legal tender in India the Gold Bullion Standard is obviously bound to work erratically, and anything like price control or the automatic contraction and expansion of the volume of money will not be possible.

It is well known that there are many millions of sovereigns in Indian hoards where they have been replacing the rupee for many years. If on those occasions, when the currency authority is trying to contract the currency and to control credit, the sovereigns or mohurs keep coming out of the hoards, the contraction is frustrated. So also the arbitrary entrance of sovereigns or gold mohurs into the hoards, and their occasional exit from them into circulation, must affect unfavourably the stability of prices. The other idea that in order to placate the advocates of gold currency, India should go on coining a certain volume of gold currency or mohurs annually, irrespective of the demand for them or of what happens to them, needs only to be stated in order to be condemned. There remains for consideration the project of the over-valued or token gold coin.

Now it has been shown clearly that a 20 rupee gold mohur of 165.5 grains cannot become the standard of value of India. It is also difficult to see how the issue of such over-valued token coins can advance the cause of an effective gold currency; because, being few in number, they must command a premium and cannot circulate freely and at a fixed value; again being so few they must be issued only to a number of favoured holders. As Sir Basil Blackett has further argued, in times of contraction of currency they would not prove entirely satisfactory, from the standpoint of the currency authority. The obvious conclusion is that all these inefficient makeshifts cannot be

regarded as even leading up to an effective gold currency, but they can certainly hinder the smooth working of the Gold Bullion Standard and they must alarm the world's monetary centres by convincing them of our incurably mercantilistic proclivities.

THE PROBLEM OF THE RATIO

Among the recommendations of the Currency Commission the most important were those which related to the Gold Bullion Standard and to the Reserve Bank; but propaganda and controversy have spent their force around the question of the ratio and have given it an importance which intrinsically it did not possess. The leading issue in the ratio controversy was whether prices in India have adjusted themselves to the ratio of 1s. 6d. recommended by the Commission; for, it is agreed, that if it can be shown that prices have in a preponderant degree thus adjusted themselves to the existing ratio, there is no sense in going back to the older ratio, since such a reversion would mean a new set of adjustments.

In stating the case for such an adjustment of prices in India to the ratio of 1s. 6d., the first thing to be emphasised is that for a considerable period a number of important economic factors have been favourable to such an adjustment. In fact the experiment in the stabilisation of exchange might be said to have been carried out under ideally favourable conditions, which might be thus referred to:

(1) The most important factor in the situation, which has not received in the course of the controversy the attention which it deserves, has been the achievement of budgetary equilibrium for a number of years. The critics of the Report have exaggerated the monetary deflation which preceded the rise of the rupee to 1s. 6d., while they have underestimated, and indeed hardly even

mentioned, the "financial deflation" which was really a more important factor in the situation. The monetary experience of Europe in the last decade has amply proved that "granted such a budgetary equilibrium, an improvement in the exchange will follow of itself and also a fall in prices." As an eminent French economist has well observed let us seek financial deflation and all other things will be granted unto us.

(2) The second important factor in the adjustment of internal prices has, of course, been the monetary deflation; though when we consider the immense inflation of the Indian currency during the period from 1913 to 1920, and also the lessened volume of business transactions since that period, the deflation will not appear to be undue or excessive. The net contraction in the year 1920-21 was 31,58 lakhs; and that in the years 1921-22 and 1922-23 amounted to 1,11 lakhs and 5,69 lakhs respectively. That this contraction was not excessive is proved by the striking fact that in 1920-21 the downward fall of the rupee continued, and it fell as low as 1s. 3d., in spite of the deflation. Indeed, anything like a radical contraction was out of the question in India because, as late as 1922, on account of the budgetary weakness the operation of wiping out of the created securities in the Paper Currency Reserve had to be adjourned *sine die* and thus the provisions of the Paper Currency Act of 1920, which aimed at deflation, had to be suspended. Another factor which always renders anything like a drastic deflation out of the question in India is the exceptional sensitiveness of the money market.

A great deal has been made of the magnitude of the later deflation; but such criticism neglects several most important deductions to be made from that deflation. In order to arrive at

the net contraction we must in the first place deduct from the 32 crores of contraction (in the period 1925 to 1927) the 13 crores of silver rupees which came back into the reserves, and thus the deflation is brought down to 18,96 lakhs. But this is not all; for a second deduction remains to be made before we can arrive at the actual deflation.

It is to be noted that besides the rupees which have been going back to the Paper Currency Reserve, a large number went into active circulation, thus to some extent undoing the work of deflation. If, indeed, the deflation had been anything like drastic the Indian money market would have manifested its usual sensitiveness to and intolerance of anything like serious contraction. We have only to contrast with this very hesitating and cautious deflation the inflation of the period 1913 to 1920, to come to the conclusion that such deflation as has taken place was quite necessary and that the rise of the exchange was not the consequence of currency manipulation. The truth is that neither in 1926 nor 1898 was contraction of currency the main factor in the raising of Indian Exchange—the condition of India as regards foreign trade being the decisive factor in each case.

(3) The third factor favouring the adjustment of Indian prices to the 1s. 6d. ratio has been gradually receiving recognition in India, and consists of the influence exercised by the steadily maintained ratio of exchange itself on the purchasing power parities. In the light of European experience since the war, distinguished economists like Nogaro and Aftalion have emphasised the decisive influence of exchanges on internal prices. It has been recognised that exchanges and purchasing parities reciprocally influence each other. In the case of India, an exchange higher than 1s. 4d. had been exerting its in-

fluence on prices for some years before the stabilisation in 1926.

The cumulative effect of these several influences on the Indian price level makes it highly improbable that the adjustment of prices to the new ratio has not taken place. The only answer that has been or can be advanced to this, consists of the assertion that the adjustment of prices to the exchanges is extremely slow and difficult in the case of India. No doubt there is something in the argument, and there is a time-lag in the inverse correlation between prices and exchanges in India. But this condition of a time-lag has been more than adequately met in the present case where a higher exchange than 1s. 4d., has been prevailing for several years.

It is to be noted that the 1s. 4d. (gold) was reached again in 1924. But even before that if we cast a glance at the period since 1917, the difficulty as regards the time-lag is found to vanish, because for the greater part of that time the ruling exchange ratio was higher than 1s. 4d., and therefore the prices must have adjusted themselves for many years to a ratio higher than 1s. 4d. Further, as Professor Kemmerer has observed, "there occasionally arise conditions in which temporary forces tend to pull exchange rate and general prices in the same direction," but in the present case the special conditions which have been prevailing for the last five years have facilitated the negative correlation. For five successive good harvests have powerfully assisted to raise the exchange ratio, which but for the efforts to keep it down to 1s. 6d., would have easily gone up to 1s. 10d.; the same causes have lowered local prices and have thus assisted the adjustment of the ratio and the prices.

The above general considerations regarding the adjustment of prices to the ratio might be reinforced by some

statistical considerations. In the Report of the Commissions on page 71, we find a remarkably close negative correlation traced between the curve of the rupee exchange and that of internal prices in India. It is very rare indeed to see such a close fit between price parities and exchanges. But as time went on even a closer fit between the two curves was demonstrated satisfactorily. A few months after the publication of the Report, Sir Basil Blackett brought up the figures to a later date and showed that "eighty per cent of the adjustment of price to the 1s. 6d. ratio had already taken place" before the Commission had ended its labour. The figures on which he based his calculations are given below:

	Gold Parity of Rupees	United States of America Prices	Calcutta Rupee Prices
1922.....	95	156	176
1926.....	112	152	150

The inference from these figures was obvious. The rise of 17 points in the gold parity called for a drop of 15 points in the Calcutta prices, and the Calcutta prices seem to have responded in almost the same proportion. Even allowing for the fall in world prices which must itself have reacted on Indian prices, the drop of prices in India was over 80 per cent, which thus forms a very close adjustment.

Attempts have been made to show that the fall of prices in India was not so much an adjustment to the higher exchange as a reflection of the fall of world prices. But such a point of view is quite untenable. Any reliable set of statistics—like those of the Monthly Bulletin of the League of Nations—will show that the fall of prices in India started much earlier than in other coun-

tries—as a matter of fact, from October, 1924 (*i.e.*, from the time when the rupee rose to 1s. 4d. in gold)—and was much greater than in other countries during the period of which the Report speaks; indeed, in the United States, there was hardly any fall of prices during the period referred to. Under such circumstances, it would be a mistake to lay too much stress on any sympathetic action of foreign prices, and to ignore the action of the other important prices mentioned before.

THE RESERVE BANK SCHEME

The pivot of the whole scheme of monetary reconstruction put forward by the Commission is to be formed by the proposed Reserve Bank of India. The greatest care was, therefore, necessary to adapt the constitution of that bank and of its governing body to the special circumstances of India, and to apply the world's experience of centralised banking to Indian conditions. It needs hardly be emphasised that in many important aspects, the currency and banking conditions of India are markedly different from those prevailing elsewhere. It would have been easy to borrow the idea of a state bank or of any other type central bank bodily from abroad and to force it on India; but that would have been a futile procedure. The *true test* of the merits of the Commission's scheme of a central bank for India is whether it fits into Indian life, and is adapted to the special Indian conditions. It is this test that we shall now proceed to apply to the Royal Commission's project of a Reserve Bank:

(1) The most important peculiarities of India in the matter of banking is that joint stock banking is so little developed as yet, and the traditions and standards of banking, as well as its proper methods, have as yet to be formed while banking talent has to be

discovered and trained. That being, according to general testimony, the prevailing state of things, the idea of a state bank (of the pure type) is obviously ill-adapted to Indian conditions. It is beside the point to tell us that there was once a great state bank in Russia, or that new state banks have been recently started and are working in Australia or Latvia or Esthonia. There are no precedents in which such a development of commercial and joint stock banking as India so greatly requires took place under the *aegis* of a state bank.

While magnificent systems of commercial banking have grown up under the wings of the ordinary type of central banks—witness the banking systems of England, Germany and other countries—the pure state bank has always been sterile in this respect, and even such assistance as it has sometimes capriciously extended to industry and trade has generally been of the dangerous inflationary variety. It is not in the power of mere state organisation to create the spirit of banking, and it is the development of banking traditions and spirit which India needs above all, at this juncture.

The Royal Commission recognised this necessity and recommended the formation of a Reserve Bank in which the private shareholder will have just sufficient voice to secure the independence of the Bank *vis-à-vis* the state; at the same time in view of the transfer of the state's note issue and its remittance as well as banking business to the new bank and also with a due regard to the ultimate responsibility which the state must bear in India, the Commission gave an adequate voice to the state in the management of the bank, through its power of nominating five out of the fourteen members of the Central Board. It might also be added that while in

deference to the views of politicians, in the later scheme evolved in 1927 the Reserve Bank has been entitled a state bank, yet through the addition of private stockholders and their wide geographical distribution and special qualifications, many of the advantageous features of a shareholder's bank have been retained successfully. There are quite a number of intermediate types between the ordinary central bank and the state bank, and the scheme of Sir Basil Blackett is in reality far more closely allied to the former than to the latter.

In other ways, too, the Royal Commission's scheme kept closely in view the much-required development of commercial banking in India. It fully recognised the great value to India of the commercial traditions carried forward by the existing Imperial Bank of India, and consequently based the future banking system of the country not upon a central bank alone—as in so many other countries—but upon the coöperation of a central bank and the Imperial Bank of India. It also outlined a workable and appropriate scheme of such coöperation. These features formed important examples of the adaptation of the occidental ideas of central banking to Indian conditions in the scheme of the Report.

Another special circumstance to be taken account of carefully, in the case of India, was the fact that much of the banking, note issue and remittance business of the country has been for a long period carried on by the Government, and the sudden removal of such Government prestige from those operations might affect public confidence in their working unfavourably. Care has therefore been taken to secure Government assistance and guarantee wherever the operations require it. Thus, it has been proposed that the notes of the Reserve Bank of India should be

guaranteed by the Government; the Bank has been given the important right to deliver redundant rupees to the Government and to be supplied with rupees and token coins whenever necessary; the cash balances of the Government of India and of the Secretary of State (both inside and outside of India) are to be placed in charge of the Bank. Ample provision has also been made for due supervision and audit by the Government.

The importance of avoiding any possibility of political influence and pressure over central banks and the inadvisability of any direct political representation on their boards are matters generally recognised and acted upon in all advanced countries. With all respect to the Indian legislation it might be added that there is special need of such a self-denying ordinance. No one can question the capacity or integrity of our politicians, but neither can the fact be ignored that democratic and representative institutions are in their infancy or early youth in India, and that high political traditions are yet in the process of being formed. Consequently the suggestions so persistently made to introduce members of the Legislatures on the directorate of the Bank are specially dangerous in India.

If adopted, these measures would introduce political pressure in its least desirable form—in the party form and in the personal form—into the Bank's directorate and would make of that body a house divided against itself. The eddies of political feeling and party antagonisms would be made to act directly on the Bank and its policy with very undesirable results. Nor should it be forgotten that monetary issues are quite capable of becoming first-class political issues at any time, and the dominant party of the day having its numbers on the Bank's

directorates will be at great advantage in forcing its point of view into action. It was in view of these considerations that the Commissions recommended that no person was to be on the Central Board of the Reserve Bank if he was a member of the Governor General's Council, the Council of State or the Legislative Assembly or Councils.

In other directions, too, the idea of a central bank was worked out with reference to the special banking conditions prevailing in India. Thus the absence of a well-organised money market in India would form a great limitation of the utility of the Reserve Bank. Appreciating this state of thing, the Report notes suggestions for granting facilities for the development of a bill market in India. It was owing to the existence of the same condition that the Report attaches less importance than it otherwise would have done to the direct operations of the Reserve Bank in the bill market. A full appreciation of the local condition and of the importance of public confidence in the resources of the Reserve Bank dictated the suggestion that the reserve of the Bank should be built up rapidly even at the expense of the profits of the Bank. All these considerations tend to show that a careful study of the special circumstances of banking development in India underlies the proposals of the Commissions.

Since the above was written the Reserve Bank Bill has had to be dropped. It can hardly be doubted that the wrecking of the Bill is a misfortune for India, since it adjourns *sine die* the process of the transfer of the control of currency and credit from the Secretary of State and the Government of India to the representatives of the people of India. Still the course of the controversy demonstrated the general prevalence of the opinion that India was badly in need of a true cen-

tral bank; and from this it can be safely inferred that the Bill will be revived at no distant date. It is to be hoped that the future Bill will be based like its predecessor on the best lessons of the evolution of central banking in the world.

MODIFICATIONS OF THE PAPER CURRENCY SYSTEM

In the general scheme of monetary reconstruction in India the reorganisation of the Paper Currency system according to the Commission's proposals would form a notable chapter. There was a great need for reorganisation in this direction. The paper currency system of India was an imitation of the corresponding system in England, although, as Professor Marshall has observed, in matters of currency England was a specially bad example for India to follow. While in England the needed element of elasticity under such arrangements was gained through the use of cheques, India continued to pay the penalty of "the creed of 1861" in the shape of an inelastic paper currency. During the war period and after, the need for money for additional circulations had led to a rapid *crescendo* movement which had carried the fiduciary issue to heights undreamed of. Before the war, the fiduciary issue had been raised to 14 crores; by 1925, a fiduciary issue of 100 crores was made possible.

Another very undesirable feature of the situation had been the vast growth of Indian "created securities" in the Paper Currency Reserve. It is true that a reform of this state of things had been projected by the Act 45 of 1920, by which the "created securities" were to be limited to 12 crores, while the fiduciary issue was transformed into a percentage of the total note issue—though even so we did not progress as far as the "Cunliffe limit" idea. But

the temporary provisions of the Act were so suited to the financial conditions of the time and were so tenaciously clung to and utilised that the permanent provisions of the Act which formed a real scheme of reform were never given a chance, and the automatic elasticity which had been aimed at was never realised. Indeed, by 1922, in order to give relief to general finances the proposed employment of the interest on paper currency securities to extinguish the created securities was put off virtually *sine die*.

We have space here only to indicate the main lines of the radical reform which the Commission projected as regards the Paper Currency system. The most important of these recommendations was that relating to the introduction of the Proportional Reserve system which when adopted will restore to the note issue that elasticity which has been foreign to it so long. As the Report observes "the system permits of a far wider range of expansion and of contraction than the fixed fiduciary system," which, it might be added, does not give general satisfaction, even in England, in these days. The constant and unsatisfactory efforts witnessed in the past in India to secure elasticity by raising the fiduciary issue and by other extrinsic methods will under the Proportional Reserve system, be a matter of the past. Then, again, the fusion of the Paper Currency Reserve and the Gold Standard Reserve which has been long overdue is about to become an accomplished fact. The future elasticity of the currency is now to be assured not merely by the introduction of the Proportional Reserve system, but further by the issue of notes against self-liquidating trade bills to the maximum of 60 crores. A still further provision for elasticity is the recommendations as regards the suspension of the Reserve

requirements and the tax on additional note issue. Then we come to note the improvements recommended as regards the constitution of the Paper Currency and Banking Reserve.

Within a period of ten years the "created securities" must go and be replaced by marketable securities. In view of the advent of the Gold Bullion Standard and because the paper currency is to cease to be convertible by law into silver coin, it is proposed that the silver holding in the Reserve should be very substantially reduced during a transitional period of ten years. The Reserve will contain a minimum of 40 per cent of gold and gold securities while the normal figures must be higher. While we follow here the example of all modern banks, care has been also taken to strengthen the gold holding from the very initial stages of the formation of the Reserve Bank. Thus, on the one hand the Reserve Bank will have ample gold and gold securities to protect the exchange while, on the other hand, there will be enough silver in it to provide against an internal drain.

It is satisfactory to find that the paper currency scheme of the Royal Commission has been simultaneously criticised from two opposed and irreconcilable points of view. Some advanced and able Indian economists have, while expressing a general approval of the scheme, deplored that too little discretion has been left by the scheme to the Reserve Bank authorities in the matter of fixing the percentage of the gold and gold securities in the reserve. They would also object to the "rigid stages outlined by the Commission for the reduction of the rupee reserves" and to the "arbitrary stages laid down for the final attainment of the ratio of the gold in the reserve." According to them, the Commission ought to have gone much

further in the direction of granting discretion to the banking authority in matters like the composition and location of the Reserve.

But, on the other hand, a number of Indian political leaders of eminence have proposed a very stringent curtailment of the discretion of the currency and banking authorities with the avowed object of broadening the stream of gold flowing into India. For instance, they would insist that after the first ten years of the Bank's existence the gold securities in the reserves must *never* exceed one-half of the total gold assets; also that care should be taken that 85 per cent of gold coin and bullion in the Reserve should never leave India. They would further, in order to insure the keeping of more gold in India, insist that the currency authority should buy gold but not sell it (only exchange on foreign countries being sold when balances are adverse), though such a line of policy would, of course, make an end of the Gold Bullion Standard.

In the presence of the sharply defined schools of opinion in India, the course laid down by the Royal Commission seems to be the only possible one. The fullest discretion should of course be extended to the Reserve Bank's directorate when the latter has been wisely constituted and has a sound record and traditions behind it; but unlimited discretion cannot be granted irrespective of achievement and personnel, and the constitution of the governing body of the Reserve Bank is still on the knees of the Gods.

PROCEDURE OF THE REMITTANCE OPERATIONS

Even a brief review of monetary reconstruction in India would be incomplete without some reference to the recommendations of the Royal Commissions relating to the System of

Remittances for financing the Home Treasury. As long as the Government continued to operate in the exchange market, criticisms were ceaselessly directed against its policy in this respect. For instance, it was alleged that unnecessarily large balances were kept up in England; that by the sale of council drafts the flow of gold to India was being checked and consequently the use of token coinage was encouraged. It was further supposed that gratuitously lower prices were accepted for the Council bills to the detriment of India. Even if the Royal Commission's recommendations to transfer the Remittance Business to the Reserve Bank only laid these old spectres, a very great advantage would have been secured. But further, if the Reserve Bank, as suggested, was to control the currency policy and to discharge the obligations implied in it, a necessary preliminary was its control of the remittances; for the Government remittances constituted a very large proportion of the total foreign remittances of India.

Besides the transfer of the Remittance Business to the Reserve Bank the Commission recommended that the Secretary of State should furnish to the Bank through the Government of India, periodical information as to his forecasts of requirements. The difficulties as regards the formation of such advance programmes are admittedly great, but reasonably accurate forecasts of the financial requirements might be possible, and would prove of great value in facilitating the remittance operations of the Bank.

While thus affording facilities to the Bank in its task, the Commission declined to prescribe or to limit the methods of remittance to be employed by it, and left full discretion to it as regards the *modus operandi*. In this way, the remitting authority is left the

discretion as to acquiring sterling or rupees according to the circumstances, but at the same time the Report showed a preference for the recently introduced methods of remittance by the purchase of sterling in India. This valuable innovation is recommended as the regular method because by means of regulating such purchases of sterling the Government of India has been able to steady the Exchange repeatedly, and because it is in India that the factors affecting the immediate course of exchange could best be appraised. As to whether the sterling purchases are to be by public tender, or whether the Banks' operations are in this respect to be discretionary and the method of private purchases is to be employed, the Commission refused to fetter the discretion of the Bank, though it made some useful general observations on the point.

There is much to be said for the view that the main factor to be considered is the comparative cost of the remittance, and that, while under normal conditions the public tender system will give the best results, there is scope for the employment of the method of private purchase, especially in transitional periods. Thus the Commission has touched on the general principles of remittance work, leaving the details to be worked out in the light of experience.

We have now traced the main lines of the comprehensive monetary policy recommended by a Currency Commission in 1925-26 so far as the space at our disposal permitted. But it re-

mains to add that the proposals of the Report amount to something more than a scheme for monetary reconstruction.

It is submitted that the Report forms at once a most important step in the evolution of the economic autonomy of India and a great chapter in the history of Economic Liberalism. As Sir Basil Blackett has observed:

The whole burden of the Currency Commission was to recommend a transfer to India of the control of India's finances under the auspices of a Reserve Bank independent of Government control.

Under the scheme of the Report, the Government will divest itself of the right of issuing notes, will cease to operate directly in the exchange market, will hand over the remittance business and will part with its balances both in and out of India. The critics of the Report might very pertinently be asked to point to any other example in economic history where Governments have at one stroke transferred such a wide range of economic functions into the popular control.

A great deal of the credit for such a policy is justly due to the authors of the Finance Department memorandum placed before the Commission. But the momentum thus imparted has been carried forward fully by the Report, and hence, as has been said before, India will in future regard the Report as an important step forward in the national financial autonomy, and many of the chapters in that Report form also chapters in the growth and development of Economic Liberalism.

Public Finance in India

By GEORGE FINDLAY SHIRRAS, M.A.

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SOME years ago when I lectured at Harvard and Princeton I remember the interest that was taken in the Indian financial system and the changes brought about in Federal and State finance—I use the American terms—consequent on the Reforms introduced by the new Constitution embodied in the Government of India Act 1919. The object of this Memorandum is to describe so that he who runs may read and reading understand the main features of this financial system as it works in this country today.

Like the great and friendly Republic before the war and like the Union of South Africa, Australia, Canada, and many other countries today, India is a debtor country in the sense that foreign capital is invested in her railways and irrigation works and in industries in excess of her own investments abroad. She has also to remit an amount varying between \$150,000,000 and \$175,000,000 (£30 and £35 million sterling) annually, known as Home Charges, to meet the expenditure connected with railway material, military, pension and other sterling adjustments. The question of exchange, therefore, is of great importance. To liquidate the claims official and nonofficial exports have to exceed imports, that is, India has to maintain a favourable balance of her visible grade.

ECONOMIC CONDITION

India, it will be remembered, is as large as Europe without Russia, and her population is one fifth of the human race. The area is 3,750,000 square

miles with a population of 319,000,000, while Europe, including Russia, has an area of 1,805,332 square miles and a population of 475,000,000. The wants of the people are simple and are chiefly available within reasonably close proximity to the consumer. Agriculture is far in a way the most important industry and India's exports (which amount to one eleventh of her total production) are to the extent of nine tenths agricultural products. Thus she is more like the United States in that she relies on internal markets to a large degree, and is unhampered by interprovincial trade barriers. Her industries, especially the cotton textile industry, iron and coal, have felt the effects of world depression. During the war many of her industries increased their capacity and with the absence of demand and of the stimulus of high prices these have suffered considerably.

The slump of 1920-21, and subsequent years, affected the economic life of India in various ways. In the first place it was necessary, if India was to purchase the same volume of imports as before, that she should export proportionately much more of her raw materials to pay for the highly priced manufactured goods. The prices of manufactured goods increased more than those of raw materials. Three quarters of India's exports are raw materials and approximately the same proportion of her imports are manufactured goods. In 1924 and 1925, however, exports did increase as compared with prewar levels but imports were relatively less. Fluctuation in

prices has been serious. There has, too, been the lag in the rise of wages in regard to prices. When a fall of prices occurred and trade became depressed a reduction in wages was not possible. At the International Economic Conference Geneva in May, 1927, the representatives of this country stated that,

Partly as a result of war and postwar conditions, and partly as a result of the adoption of a policy of discriminating protection, a change has occurred in the character of India's foreign trade. Manufacturers account for a slightly lower proportion of her imports and a slightly higher proportion of her exports. While, thanks to a succession of good harvests, agricultural production has increased, local consumption has in the main increased more rapidly than exports.

FINANCIAL SYSTEM

The facts stated in the preceding paragraphs have an important bearing on public finance in many ways. For example, indirect taxation is the main source of taxation as might be expected where the population to a large degree depends on agriculture. Again fluctuations in exchange were brought about by the trade boom and its aftermath. From 1s. 4d. the rupee rose to 2s. 10½d. in the spring of 1920. It fell approximately to 1s. 3d. in 1921, and subsequently rose to 1s. 6d. where, by legislation in 1927, it has been stabilised.

With this explanation of the basic facts behind the Indian financial system we may now plunge in *medias res*. The Reforms *inter alia* were designed to secure a greater measure of independence for Provincial (or State) Governments and each Provincial Government has its own budget and is responsible for its own finance. The Indian or Native States are also responsible for their own finances which are not, of course, included in the Central or Federal or in the Provincial Budgets. The General Budget is di-

vided into two heads (1) Revenue and expenditure charged to revenue and mainly representing current revenue and expenditure; and (2) "Receipts and disbursements" which represent capital transactions. This part of the budget is often called the "Ways & Means" budget. The receipt side of this latter budget (which is often misunderstood) includes any surplus or deficit in revenue, after meeting the expenditure charged to it, railway capital contributed by railway companies and Indian States towards outlay on State railways and proceeds of loans and other credit transactions including the annual additions to certain funds which may be classified as "debts, deposits and advances." The expenditure side of this account includes capital account disbursements and "debts, deposits, and advances." The financial year extends from April 1st to the following March 31st. The Budget is prepared about the middle of the current financial year, is submitted to the Legislature on the last day of February, and voted before the beginning of the financial year to which it refers.

REVENUE AND EXPENDITURE OF THE CENTRAL GOVERNMENT
(In millions of Rupees)

	Revenue	Expenditure	Surplus+ Deficit-
1913-14 (prewar year)	813.27	778.58	+34.69
1923-24.....	1331.7	1307.8	+23.9
1924-25.....	1380.4	1323.6	+56.8
1925-26.....	1333.3	1300.1	+33.2
1926-27.....	1302.5	1271.5	+31.0
1927-28.....	1289.6	1252.6	+37.6

In the last five years, financial equilibrium has been obtained, and the country looks forward with an improvement in the international trade position to a period of commercial ex-

pansion. The years 1917-18, and their four immediate successors, were years of unbalanced budgets and are a real blot in the history of Indian finance. The total deficits in these five years amount to over 980 millions of rupees. In the five years ended 1927-28 the surpluses have amounted in the aggregate to over 180 millions of rupees.

SOURCES OF REVENUE

The main sources of revenue of the Central Government are customs, railways, income tax, salt, opium, currency and mint, military receipts, and contributions and assignments to the Central Government by Provincial Governments. The main heads of expenditure are military services, railways, and debt services, which accounted for 1,060 millions of rupees out of a total expenditure of 1,300 millions of rupees in 1926-27 (Budget Estimates). The sources of revenue just mentioned amounted, in the same year, to nearly 1,230 millions of rupees out of a total revenue of 1,300 millions. It may be noted here that the export of opium to China was prohibited in 1913 and in June, 1926, the Government of India decided to reduce progressively exports of opium from India, except for strictly medical and scientific purposes, so as to extinguish them altogether at the end of 1935. Thus the revenue from this head is a dwindling one.

In addition to the Central or Federal Government's budget there are the budgets of the various Provincial or State Governments. The Budget Estimates for 1926-27, the latest available year show a total revenue of 940 millions of rupees and a total expenditure of 970 millions of rupees. In this connection the Finance Minister of the Central Government said, some years ago:

It has been suggested to me by more than one spokesman for the provinces that there is a feeling in the minds of the Provincial Governments and of their legislatures that it would be unwise for them to show balanced budgets. They are, it is hinted, taking a leaf out of the book of some charitable and religious bodies which make a habit of showing an annual deficit in order to make a striking appeal to their supporters to come to their rescue. The Provincial Governments think, it will be said, that they will get more sympathy from the Central Government and get rid of their provincial contributions (to the Central Government) quicker if they can show a handsome deficit and appeal to the charity of the Central Government. I should like to say for my part that the strongest appeal that the Provincial Governments can make to me in this matter of provincial contributions is to show themselves worthy of assistance from the Central Government by strenuous and successful endeavours to make ends meet for themselves.

The main heads of revenue for 1926-27 (Budget Estimates) of the Provincial Governments are land revenue, excise, stamps, irrigation, and forests—Rs. 820 millions out of a total revenue of Rs. 940 millions. Of the expenditure of Rs. 970 millions, salaries of civil departments including education were Rs. 520 millions, civil works Rs. 110 millions, irrigation Rs. 70 millions, assignments and contributions to the Central Government Rs. 54.5 millions, and land revenue Rs. 40 millions. To some of these items we shall refer in a subsequent paragraph where the questions of provincial contributions and provincial stringency are discussed.

It will thus be clear that the Central Government's budget is the controlling factor in Indian Public Finance today. It is far greater than all the Provincial budgets put together. It possesses elastic heads of revenue (such as income tax and customs) which, or at least a share of which, provincial governments long to have for the develop-

ment of education and sanitation. On the other hand the Central Government has the all important duty of defence. India has 1,400 miles of dangerous frontier and although Rs. 590 millions out of an expenditure of Rs. 1,300 millions is on military services this is a far less proportion if provincial budgets are also taken into account. The Central Government has, too, the control of India's public debt and the preservation of the high credit which India has in the London money market. Added to this there are the railways which are a source of profit to the State. The total capital at charge on Railways to the end of 1925-26 was Rs. 7,630 millions and the average return on the capital at charge 5.61 per cent.

From 1924-25 Railway Finance has been separated from the general finances of Government. There is now a fixed contribution from railways to general revenues of Rs. 50.9 millions and Government obtains in addition one third of the excess over Rs. 30 millions of the net balance shown by receipts over expenditure. There is a Railway Reserve apart from Government revenues, and Railways are run on a commercial basis.

CENTRALISED FINANCIAL ADMINISTRATION

In India financial administration was for long centralised. All the revenues of British India went into one purse and the Central Government allowed the provincial governments so much annually. When the government of the country was simple this system worked but when after the Mutiny with the development of police communications, and education, the needs of provincial governments became greater and some decentralisation of financial powers became more and more necessary.

In 1870 it was decided to give provincial governments some incentive to practise economies and to make them take part of the burden of administration off the shoulders of the Central Government. The outlines of the scheme of Lord Mayo were published in the Government of India Gazette of December 14, 1870, and it was in brief that there were two groups of services, one of which was to be administered by the Central Government and the other by the provinces. The latter group included such services as police, education, sanitation, and public works (roads and buildings) belonging to local governments.

The expenditure in connection with these was provided for by an annual consolidated grant, fixed as a rule for five years, for each province. Any savings made in these grants (which were not reduced except in the most urgent necessity) went to the Provincial Government and did not lapse to the Central Government at the end of the year. This was in general terms the system which was in force until the new constitution came into being in 1921. It will be noted that under the Mayo Scheme, instead of fixed grants to provincial governments, certain specified heads of revenue were given to them in whole that is, income from stamps, excise, law and justice or in part. Thus began the system of "divided heads," divided heads of revenue between the central and provincial governments which were believed to be the most capable of expansion under proper management. At each five-yearly settlement the terms were slightly altered. In 1904 the financial settlements between the Government of India and the provinces were made quasi-permanent and in 1912 absolutely so. In 1904 the provinces were given the right to keep their own savings.

DIVISION OF HEADS

The constitution contemplated by the Government of India Act 1919 necessitated with the new status and responsibilities of provincial governments a complete revision of the financial relations and division of revenues between the central and provincial governments. Provincial governments were given additional powers to borrow and to tax and the system of divided heads was abolished. The Central Government retained income tax, customs and salt while the provincial governments had land revenue and the other heads referred to above.

In the division of heads the Central Government was left with insufficient resources and thus it was necessary to ask the provinces to pay back to the Central Government, each year, an amount which was fixed by the Meston Committee in 1920. The Committee were aware that the scale of expenditure differed from province to province, but thought that it would be fairest for those provinces, which gained most by the proposed new allocation of revenues, to pay most to the Central Government. The disadvantages of this scheme were (1) that a province that had been economical in the past was penalised for its economy, because the new scheme made the difference between its expenditure and its newly gained revenue all the greater and therefore it would have to pay more to the Central Government; (2) that in the past, provinces had not developed their communications and services adequately and that this difference between revenue and expenditure should be kept by the provinces in order to correct the harmfully low expenditure hitherto followed.

The Committee had to fix ideal or standard contributions to be made by

government until the deficit in the Government of India's (that is the Central Government's) finances should be abolished. This new settlement produced great indignation in the provinces which for the first time saw how much they were contributing to the Central Government, and there was much eagerness to push on with the nation-building departments and at the same time owing to the increased cost of living to meet the increased pay required for the provincial services. When it is remembered that during the first years of the Reforms, Madras had to pay Rs. 34.8 millions, the United Provinces Rs. 24 millions and the Punjab 17.5 millions the seriousness of the situation can be imagined and how impeded has been the working of the reforms in the provinces owing to financial stringency.

By 1926 the total contributions to the Central Government were reduced from 98.3 millions to Rs. 60.8 millions per annum and on February 28, 1927 the Finance Minister announced a recurring surplus of 36.4 millions of rupees of which he proposed to use 35 millions for the remission of provincial contributions. For special reasons the whole of Bombay's contribution was remitted and all but 19.5 millions of the provincial contributions have been permanently remitted while Rs. 35 millions have been remitted for the year 1927-28 only. In the present year 1928-29 it is hoped that the remaining sum of Rs. 19.5 millions will be permanently remitted. During 1927-28 no province will pay anything to the Central Government in the way of contributions and thus no less than 54.5 millions of rupees ($35 + 19.5$) have been given to the provinces as additional spending power or power to command goods and services. This remission is the most important event in the financial relations between the Government of

India and the governments of the provinces and may have an important bearing on the development of the Indian constitution.

TAXATION

Local legislatures cannot without the previous sanction of the Central Government impose or authorise the imposition of any new tax unless the tax is a scheduled tax that is, (1) a tax on land put to uses other than agriculture; (2) a tax on succession or on acquisition by survivorship in a joint family (This raises the interesting question of inheritance taxation in India); (3) a tax on any form of betting or gambling permitted by law; (4) a tax on advertisements; (5) a tax on amusements; (6) a tax on any specified luxury; (7) a registration fee; and (8) a stamp duty other than duties of which the amount is fixed by Indian legislation, not provincial legislation. Taxes, cesses, rates, duties and fees such as a toll, a tax on buildings, servants, professions, markets, etc., which are for purely local authorities, are also included under scheduled taxes. All other taxation requires the sanction so far as provincial authorities are concerned of the Central Government or Legislature.

Since 1921 the year of the introduction of the Reforms the financial story is a remarkably good one to relate. The financial machinery has been improved, notably in regard to the separation of railway finance from the general finances as explained above. No longer is there an alternation between raids by the Railways on the taxpayer and raids by the taxpayer on the Railways. It will lead to valuable dividends in future budgets and to great economies in the working of Indian railways. It gives a real incentive to increase their efficiency. The taxpayer, instead of paying the whole of

the expenses and taking the whole of the incomings of the railways, has entered into a bargain with the railways to receive from them (1) a sum sufficient to pay in full the interest on capital invested in the commercial lines; (2) an additional dividend of five sixths of one per cent on that capital and (3) a share of any surplus earnings that may be secured. In return the railways will be left to carry on as a business and to retain any surplus over and above what they pay to Government and to apply it to railway purposes (a) for creating reserves and (b) to use these reserves to improve the services. The Government of India and the Assembly are in complete control just as hitherto. The Railways in short are now a real commercial undertaking managed on commercial lines and the taxpayer gets the benefit of commercial accounts and management. Considerable progress has, it has been seen, been made in regard to the extinction of Provincial contributions. The salt tax, an elastic and on the whole a good tax in India, has been reduced and the cotton excise duty has been abolished. The rains or weather conditions have favoured us. The level of taxation is still high as compared with 1914 but not in compulsion with other countries, as the following data shows:

TAXATION PER HEAD

	1913-14	1926-27
India	Rs. 3.42	Rs. 6.03*
Great Britain	£3-11.4	£14.11.8
France	Fcs. 84.5	Fcs. 910.2
Germany	R.M. 31.3	R.M. 113.4
Italy	Lire 53.8	Lire 394.4
United States †	\$6.8	\$30

* *Science of Public Finance* (Macmillan), p. 644 table XX.

† Federal only.

The balance between direct and indirect taxation in India today is as follows:

	50 Years Ago	Prewar Year 1913-14	1921- 22 *
Land Revenue	45.9	41.5	25.8
Other direct taxes	3.5	5.4	19.2
Direct taxes	49.4	46.9	45.
Indirect taxes	50.6	53.1	55.
	100	100	100

* P. 160, *Science of Public Finance*.

IMPORTANT MATTERS

A review of the Indian financial system would be incomplete without some reference to three matters that deserve notice in view of their importance in recent years—retrenchment, certification, and the public debt. In the winter of 1922-23 a strong Committee presided over by Lord Inchcape examined the whole range of expenditure in so far as it related to Central finance. The Committee realised the importance of financial equilibrium and of the place of expenditure in securing this equilibrium. Savings to the extent of nearly Rs. 193 millions were recommended, the largest items of economy being on the military side (Rs. 105 millions), railways Rs. 45 millions, Post and Telegraphs (Rs. 13 millions) exclusive of five millions in the capital expenditure of the Telegraph Department. In the sphere of general administration a reduction of five millions was recommended towards which every Department of the Government of India had to contribute by very drastic economies. In the 1923-24 budget the Government was able to include the major portion of the economies recommended.

In regard to certification it is sometimes necessary to certify, restore, or

authorise expenditure as an Act of the Executive. This is provided in the constitution as defined in the Government of India Act 1919 and is described elsewhere¹ both in regard to the central and provincial governments. The Finance Bill of 1923 and the Finance Bill of 1924 were certified and the Governor-General stated at length the reasons which led him to certify these Bills. In the pre-reform days the official bloc on the Legislature enabled the Executive to pass necessary legislation. The reason for entrusting these powers of certification to the Governor-General and to Governors is the fact that the Central Government is responsible not to the Central Legislature but to the British Parliament and with the lessening of this responsibility to Parliament the certifying powers will *pro tanto* be reduced.

The debt position of India today is one of considerable interest to students of finance because of the large proportion of the total debt that is productive. The productive portion is invested mainly in irrigation works and in railways which pay a return on the capital invested. The total debt of India on March 31st, 1927, was as follows:

	R (millions)
In India	5231.4
In England ²	4524.0
	<hr/> 9755.4
Productive	
for Central Government	6544.2
for Provinces	1194.1
	<hr/> 7738.3
Unproductive	2107.1
	<hr/> 9755.4

¹ Vide ch. XXXIX, the Legislation of the Budget, *Science of Public Finance*, p. 594.

² Converted at 1s. 6d. to the rupee. The sterling amount of the public debt was £339.3 millions.

The unproductive debt of India includes the true war debt, the building of the capital, New Delhi, and accumulated deficits of the five years ended March 31, 1923. Taking the periods of 80 years for productive debt and 50 years for unproductive debt as the period reasonable to fix for the redemption of these classes of debt and assuming that the sums provided year by year are set aside to accumulate at 5 per cent compound interest we find that Rs. 36.6 millions is the amount to be provided annually beginning with the year 1924-25 to redeem the whole debt of India within the assigned period. An annual provision of Rs. 40.4 millions would for the next five years achieve the same end for the quinquennium. A statutory programme for the redemption of debt such as the one adopted is most desirable. The Government of India have made regular provision for reduction or avoidance of debt and have been able accordingly to borrow on favourable terms in the market.

India has been buying back the titles to some part of her sterling loans and this is a process that is the beginning of India's becoming a creditor nation in the ordinary sense of the words. Hitherto she has been a creditor in the sense her exports exceed her imports and hitherto the payment has been mainly in the form of gold and silver. A Provincial Loans Fund has been established and it will regulate on definite principles the borrowing of the Provinces. In short, the interest charges and the terms on which the advances are granted, for various purposes are to be repaid, will be the same for all provinces, and at such rates as will keep the Fund solvent. The Fund has the germs of a noteworthy development as it is likely some day to be the Fund which should be administered by an Indian body corresponding to the

National Debt Commissioners and the Public Works Loan Commissioners in England.

It would be advantageous to the finances of India if the advances made by the Central Government to the Provincial Governments could be excluded from the Public Debt of the Government of India in the same way as advances made on the guarantee of the British Treasury to public bodies in Great Britain are excluded from the British Public Debt. It would show better the real facts of India's Public Debt and the single borrower, the Government of India, would then raise what was necessary for itself on the sole security of the Indian revenues.

PRINCIPLES OF SOUND FINANCE

The principles of sound finance must be applied to every function of Government and this is the problem that has been successfully tackled in India. It is not without criticism as ever since the creation of a Finance Membership in the Governor-General's Council in 1859 the policy has in the main been the policy of law and order first. Since 1910 the policy of spending more and more on education and other social services has been followed but the amount spent is still deplorably insufficient. In the last Census the number of males able to read and write was 19,800,000 as against 142,600,000 unable to read and write. The number of females who were literate were 2,800,000 as against 150,800,000 unable to read and write.³ Provinces, therefore, require funds to remove this blight of illiteracy and in the next few years the question of provincial and central finance will be one of the hardest India will have to solve. Financial reform will be an urgent necessity and the

³ Census. These numbers fall short of the total population of India as literacy was not enumerated in one or two tracts.

aims of our taxation will have to be further explored.

One cannot conclude this survey without a reference to the Rt. Hon. James Wilson the first Finance Minister of India. He did for Indian Finance what Alexander Hamilton did for American Finance. A former Financial Secretary of the British Treasury, he came to India in 1859, and in eight busy months laid the foundations of sound finance, foundations which remain up to the present time. In the words of Bagehot, the son-in-law of Wilson:

He united high financial reputation, considerable knowledge of India acquired at the Board of Control, tried habits of business, and long experience at the English Treasury, to the sagacious readiness in dealing with new situations which self-made men commonly have, but which is commonly wanting in others.

Wilson's successors carried on the tradition and until recent years the orthodox English or Gladstonian finance of the 19th century was the order of the day. The 20th century has passed or is passing away from this tradition, as the Reforms introduced in 1921 have changed the complexion of Indian finance. We are apt to forget the first, and perhaps the greatest, of our finance ministers and we say this remembering all the famous galaxy. Wilson, like Hamilton, is outstanding among them. Indeed the words of Madison applied to Hamilton are true of Wilson,

That he possessed intellectual powers of the first order, and the moral qualities of integrity and honour in a captivating degree, has been awarded him by a suffrage now universal.

Wilson, in short, had Hamilton's strong will, unbounded energy, unmistakable courage and great self-confidence.

Unemployment in India

By A. G. CLOW, M.A., C.I.E.

Indian Civil Service; formerly Controller of the Labour Bureau, Government of India

UNEMPLOYMENT in a country such as India is a phenomenon which assumes aspects essentially different from those with which western countries are familiar: indeed the form which unemployment takes is so different that the use of the word for the phenomena with which India is acquainted is apt to convey to a Westerner an entirely erroneous impression.

SUPPLY AND DEMAND

To the resident of a western country unemployment ordinarily means the existence for a considerable period of a body of men seeking employment in industry and unable to obtain it. It would be scarcely an exaggeration to say that unemployment in this sense is not to be found in India. As Sir Atul Chatterjee, the present High Commissioner for India, informed the International Labour Conference in 1924:

Ordinarily speaking, there is no unemployment among industrial workers in India, because the demand for labour is always greater than the supply.

This does not of course imply that there are never cases in which industrial workers want jobs and are unable to obtain them: but such cases constitute the exception and not the rule. Where industries have to contract their activity owing to a period of commercial depression, there may be for a time a small surplus of men thrown out of work; but for reasons which will appear later, this surplus does not remain long in the market for industrial labour. In one branch of activity there is always a large number of men awaiting work: this is in the shipping trade. But the ordinary seaman in the mercantile

marine in every country in the world expects to be employed on a ship for only part of the time—his engagement is normally for a limited period. And while the reserve of seamen, in the port of Calcutta in particular, is probably inflated by the fact that seamen generally receive higher rates of remuneration than can be secured by men of the same type in other walks of life, the existence of this reserve can hardly be regarded as constituting industrial unemployment, in the sense in which that term is understood in the West.

ABSENCE OF UNEMPLOYMENT

The absence of unemployment can be traced to two factors. In the first place, the industries of India have been expanding steadily for many years, and their demand for labour is a constantly increasing one. Registered factories, for example, rose from 656 in 1892, to well over 7,000 in 1926; the numbers employed in these factories have risen from less than a third of a million in 1892, to more than a million and a half in 1926. The expansion in the number of factories is due to some extent to changes in the law; but much the greater part of the expansion in the number of operatives represents a real expansion in industry. In only one year out of the last thirty-four has the number of operatives failed to show an appreciable advance on the figures of the previous year. Equally striking has been the increase in other directions; that is, railways and mines. The railways are constantly extending, and mining as an industry was in its infancy, in India, a generation ago. The result is that industry requires

every year a substantial addition to the labour force, so that a surplus arising from accidental causes can ordinarily be absorbed in a short period.

But, there is another and even more important factor which operates to prevent the appearance of any permanent surplus. This is the fact that the industrial worker in industry is seldom completely divorced from agriculture. He leaves his village owing to economic pressure, but he does not intend, ordinarily, to spend more than a few years in industry and he hopes, when he has saved a little money, to return to the land again. He maintains his ties with the village, his relatives cultivate the lands or holding belonging to his family, he revisits them if he can for comparatively long holidays in the middle of his brief industrial career, and he looks forward constantly to the time of his return. Consequently, if owing to any cause, he is thrown out of his job and cannot easily find another of the same kind, he reverts to his ancestral occupation. In Bombay (and to a much smaller extent in a few places elsewhere) there is the nucleus of a permanent industrial population; but everywhere the great majority of workers give only a temporary allegiance to industry.

A discussion of the many and far-reaching effects of this phenomenon lies outside the limits of the subject under discussion. But it should be observed that while the constant migration of labour to and from the land brings several evils in its train, it has its advantages in some directions. And one of these is undoubtedly the almost complete insurance it gives against the menace of unemployment.

DIFFERENT CONDITIONS

But unemployment in a different direction can occur on a scale to which western countries afford no parallel.

The rural population of India forms 90 per cent of the whole so that the great mass of the population is closely dependent on the land. More than 70 per cent of the total population is actually engaged in agricultural and pastoral pursuits. And, as the great majority live in a state of poverty unknown in the west, the ordinary cultivator or labourer has practically no margin on which to fall back in time of distress. Finally, the prosperity of agriculture, owing to the climatic conditions, can vary in a striking manner from year to year. A single bad monsoon will result in a crop failure in some places and a crop shortage over huge areas, and can consequently bring widespread distress. A series of indifferent monsoons can produce quite as serious effects. The agriculturist's resources are quickly exhausted, and large numbers of men find themselves unable to follow their wonted occupations and in danger of starvation for themselves and their families. The persons so rendered unemployed can on occasion reach totals far exceeding the highest known in those western industrial countries where unemployment is worst.

The long experience gained, not without many errors, in the attempts to deal with this problem has been crystallised in the organization set up to deal with unemployment of this type when it arises. The systems differ somewhat from province to province and the very brief description which follows is based on a single provincial system, but the general principles remain the same everywhere. The main principle is that of providing work rather than gratuitous relief, for those able to work and confining relief to others. In other words the able-bodied man is enabled to earn his bread: dependents and others are supported directly by the State. And

while it is seldom if ever possible to provide work that will be financially profitable to the State, every endeavour is made to secure that the work done is of real and permanent value.

PREPARING FOR SCARCITY CONDITIONS

Schemes of work are therefore devised and kept in readiness for the appearance of scarcity conditions. These consist generally of unskilled work on embankments, roads, irrigation reservoirs and canals, and vary from large schemes capable of furnishing employment for many thousands of people to what may be little more than the enlargement or the levelling of a village pond. At the beginning of indications of distress, test works may be opened; the numbers coming to these serve to show how far there is likely to be a demand for employment on any large scale. On all works, the daily task demanded is normally less than that which an ordinary labourer is accustomed to perform in ordinary times—allowance has to be made for the fact that to many men work of this kind may be unfamiliar and that their physical strength may be somewhat below normal before they seek such work. In return for the appointed tale of work, a money wage is given which is equivalent to a subsistence wage and no more, and supports only the worker and not his dependents. The latter receive an allowance in grain. In addition to this relief can be given in temporary poor-houses or in the houses of those in distress, but this relief is not given to the able-bodied. In the case of poor-houses, some work is generally required as a matter of discipline; where gratuitous relief is given in the homes, no work is required.

The first object of the system is, of course, to prevent starvation. Subsidiary objects are the maintenance of the self-respect of the worker and his

restoration to a normal way of life as soon as possible. The rate of wages given is fixed with a view to ensuring that while the worker has enough to eat, he is under no temptation to remain on a relief work after work is available for him in the ordinary way. As soon as conditions improve—with the appearance of good rain in many cases—the general demand for labour again appears and those on the works drift rapidly away. The demand then is generally for loans to be utilized in purchasing seed-grains, plough-bullocks, etc.

OPERATION SCALE

Some indication of the scale on which the organizations may be required to operate is afforded by the fact that in 1900 the number on relief at one time rose to 6,000,000 people. It is to be hoped, however, that the growth of methods of prevention will steadily diminish the demands on methods of cure; and there are encouraging signs of progress in this direction already. For example, although the crop-failure of 1918-19 was on a scale quite comparable with that of 1900, the number relieved never rose to a tenth of the figures reached in 1900. The increase in big irrigation works has rendered large areas secure which were formerly precarious, and has brought under cultivation areas formerly barren—canals now ordinarily irrigate 28,000,000 acres. At the same time, the great improvement in communications which has been a feature of the last generation, has done much to render less terrible the spectre of famine. In the early days, the movement of large quantities of foodstuffs was almost impossible in India, and the failure of crops in any large area meant starvation for many.

MIDDLE-CLASS UNEMPLOYMENT

Mention must be made of unemployment in a very different direction

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which, while it affects only a very limited class, constitutes a problem of genuine importance and increasing gravity. This is what is known in India as middle-class unemployment. It is quite impossible in the limits of a short article to analyse this question adequately, but no discussion of Indian unemployment can possibly overlook it. Increasing numbers of Indian youths reach manhood every year after receiving a higher school, college or university education, complete or otherwise. The men so turned out look for openings in the learned professions and the clerical occupations and find that such openings are comparatively few. Government service—which is generally regarded as particularly desirable—can only provide for a limited number, the legal profession is so overcrowded that, even in an extremely litigious country, the rank and file can secure a bare living with difficulty, there are many more would-be-teachers than can be absorbed, and clerks can be secured in any big city on the most miserable of pittances. A Committee which investigated the question in Madras arranged for the insertion of a test advertisement of a clerk's post on Rs. 35—(about 12 dollars) a month and received 666 applications. For a similar post in a commercial firm, there were 787 applicants. The distress which lies behind bare figures such as these must be left to the imagination of those who have not visited India. Those acquainted with conditions in Indian cities are only too familiar with the tragic spectacle of thousands of young men finding, at the outset of their adult lives, that there is no work for them to do. The fact that the great majority of men even in this class are married before they are 21 accentuates the tragedy.

It may seem to a Western reader

that the term unemployment is misapplied to a phenomenon like this, and the obvious question arises—if openings in one class are too few, why not try another class? Is there not a scarcity of industrial labour, and can not the man who is unable to secure work in an office secure work with his hands? But such a view takes no adequate account of the peculiar conditions in India. In the first place, the man trained (however imperfectly) for an office is not qualified and is frequently quite unable, to turn to manual employment. There is, among the castes which have not participated in manual labour for centuries, a strong objection to it. Indeed, for some castes it was not merely condemned by social ideas but by religious sanctions. Mr. Bipin Chandra Pal, a well-known Bengali publicist, speaking on the subject of middle-class unemployment in the Legislative Assembly stated a truth when he said:

Now, let us be honest for once, and let us ask ourselves this question about our sons. My son, or the son of my friend over there when he gets one. Is he going in for the learned professions or is he going in for such work as will place him in a chair and not put him on the lowest rung of the ladder? What would he prefer? I frankly say, Sir, one of my sons is training himself for mechanical and electrical engineering; but when I learn that he has to wield a hammer hour after hour, I frankly say I do not like the idea of it very much. I would have preferred if he could have done without it. That is the general feeling. It is ingrained among us and that feeling is to a large extent responsible for this middle class unemployment with which the Resolution deals.

It is only fair to add that an increasing number of young men are overcoming or ignoring the traditions to which reference is made in this quotation. Sir Sivaswami Aiyer, a distinguished

Madras Brahmin, in the same debate said:

I know from my personal knowledge that even among the most conservative classes in Southern India, namely the Brahmins, the objection to manual labour has largely disappeared.

The religious inhibitions are certainly disappearing, and there are indications everywhere that the advance of modern thought is combining with economic necessity to remove the sense of social inferiority attached to manual labour—but this process must be gradual. It should be remembered that apart from any traditional ideas, climatic conditions in India substantially enhance the attraction of sedentary occupations.

The fact is that, in this as in other directions, India is suffering from the clash of two very different systems of thought and civilization, and that the process of adjustment cannot but be painful. The present age is witnessing a steady disintegration of the old social and economic system. For centuries occupations were handed down from father to son. The scribe's son became a scribe, the barber's son could only become a barber and the potter's son a potter. Reading and writing were confined to the higher castes, and, in most parts of India, clerical work was the monopoly of a few castes. The higher forms of literary education of the Western type, when introduced, were for a number of years confined to the upper middle classes and the majority of those who passed through the colleges had little difficulty in securing suitable employment. Now the position is altered. Men from all grades can secure admittance to the colleges and higher schools and those who feel that they have, by tradition, a claim to man the clerical professions have to compete with an increasing number of men whose ancestors for

centuries never aspired to any such occupation.

REMEDIES

Various remedies have been suggested by the Committees which have examined the question and by individual thinkers. Some see in home rule for India the solvent of this, as of her other troubles. Others place the blame on the educational system and propose various heroic remedies involving its reform. Much was hoped for at one time from technical education, and the pursuit of industrial occupations by an increasing number of young men is a healthy symptom. A policy of "back to the land" has been advocated by several experts in the subject and the Madras Committee to which allusion has been made recorded their view that

the principal remedy for the present unemployment should be the diversion of the educated middle classes, especially for those who own or occupy land, to agriculture.

This appears to offer the most hopeful line of advance, but the diversion cannot be easily achieved.

The problem is in fact, very complex, and it is not capable of any simple or single solution. The development of the country, particularly on the industrial side, alterations in the educational system, an increasing realization by parents and others of the changes that have taken place, a greater recognition of the call to service which comes insistently from rural India, will all be of assistance. But most of these factors must be gradual in their influence. And in the meantime conditions are changing so rapidly that adjustments are incomplete before new and important disturbing factors are at work. It is not surprising that there are those among the honoured leaders of Indian

thought who would seek to turn her back from the adoption of the Western economic system. But the majority of her thinkers recognize that progress in

this direction is inevitable, and that the aim must be to minimize the suffering involved in the "growing pains" of a new age.

Primary and Secondary Education

By E. F. OATEN, M.A., LL.B., I.E.S.

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TO attempt to write an account of primary and secondary education in Europe in a few pages would be an absurdity; to attempt the same task for India is obviously less difficult, owing to the similarity of system throughout the continent, and the lower degree of complexity and development. Even so it is clear that little more can be accomplished than an indication of tendencies and a selection of relevant statistics.

WHAT AND WHOM SHALL WE TEACH?

The present organisation cannot be understood without a reference to the past. When the British administration began first to allot funds for education, they were faced with the question, "What and whom shall we teach?" What may be termed the first educational despatch stated (1914) that it was "to be applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories of India." Though by Science the despatch meant Oriental Science, as was made clear in a subsequent despatch, the working obviously left considerable latitude.

Finally all doubts as to what ought to be taught were resolved by a resolution, based on Macaulay's famous minute, in favour of the "promulgation of European literature and science," it being decided that "all the funds appropriated for the purpose of education would be best employed on English education alone." "His Lordship in Council directs that all the funds

... be henceforth employed in imparting to the native population a knowledge of English Literature and Science, through the medium of the English language."

The policy was to establish a few Zillah (District) Schools, in which English and the local vernacular would be taught, the idea being, under the filtration theory, that

the youth of the upper and middle classes will receive such an education at the head station of the Zillah as will make them willing and intelligent auxiliaries to us hereafter, in extending the same advantages to the rest of their countrymen.

And so the fateful decision was taken which fixed a great gulf between the newer and the older schools; and so was definitely overthrown in 1835 the policy of Lord Moira expressed in the following words in 1815:

The humble but valuable class of village schoolmasters claims the first place in this discussion . . . Any intervention by Government either by superintendence or by contribution should be directed to the improvement of existing tuition and the diffusion of it to places and persons now out of its reach.

The Macaulay policy has been profoundly modified by subsequent educational despatches, but primary and secondary education still bear on them the impress of that early decision. A new type of secondary school was deliberately created and fostered which had no connection whatever with any type of schools secondary or primary then existing. The State threw its weight on the side of a system which gave the middle classes funds for a particular type of school, which they

desired for their vocational needs and which the State desired for its administrative needs, which had no roots whatever in Indian culture. All the efforts made since to correct the initial bias away from Indian culture, away from mass education, away from a reasonable primary educational system, in favour of a system which would base secondary education upon a sound primary education system integrated with Indian religion and culture have never been able to restore the balance. The beginning was at the top, and Indian education in consequence grew into the topheavy inverted pyramid which it still remains.

PRESENT-DAY EDUCATION

Let us go forward nearly a hundred years, to the present day. The figures for educational institutions, apart from Universities, are as follows:¹ The few Zillah schools of the 1835 despatch have grown into 2,294 high schools and 2,968 middle or higher elementary schools teaching English. The indigenous or vernacular schools so easily put aside in 1835 have become 150,919 primary schools (a deceptive figure) and 3,853 vernacular middle or higher elementary schools. In addition we have 7,423 special schools of all kinds, that is, medical, commercial, agricultural, technical, schools for defectives (blind, dumb, etc.). And even this is not all. For bringing up the rear are 32,027 schools of the so-called unrecognised class, that is, they conform to no standards laid down by Government, and seek no favour at its hands. And the 28,510 schools for girls and women must not be forgotten. Studying in all the schools, there are not far short of ten million pupils.

These are imposing figures, but not remarkably imposing when we remember that we are dealing with a continent

and with over 200,000,000 people. In 1921, 13 per cent of the male population was literate; against 11 per cent in 1911, and 6 per cent in 1881. This represents definite progress, even though the figures are not a subject for complacency. For women the real value of the figure quoted will be realised when it is stated that 3 per cent of the female population were literate in 1921. This is all that the grand total of 228,229 educational institutions and 9,797,344 pupils¹ connotes. Though our figures are almost geological, the problem of educating India has scarcely begun.

Whatever our views as to the rightness or wrongness of the policy, this fact stands out that the main contribution of British genius to Indian education was the high school, in which English is taught. It grew to dominate education in India, because for many years practically all the available funds went to support it and in addition, in 1844, it was announced that preference would be given in all appointments to men who had received a western education. The copingstone of this system was the Universities which were first created in 1857 and which have grown to 17 in 1928.

HIGH SCHOOLS

What is this high school in which all leading Indians have received their early education? It may be studied in the pages of the Report of the Calcutta University Commission, presided over by Sir Michael Sadler, in *The Education of India* by Mr. Arthur Mayhew, and in many other publications. It is an institution, with anything from 70 to 700 pupils, but generally approximating to between 200 and 400, recognised by a University or a Board of Education as fit to present pupils

¹ Figures are taken from *Education in India* (1924-25).

¹ Figures are taken from *Education in India* (1924-25).

for an examination admitting to a University. This is the essential; except as the ante-room to the University few high schools could exist. They give in no sense a complete education. The final examination can be taken at 15 or 16 as a rule. Some of them are directly maintained or controlled by Government; some are aided and the control is less direct; some take no aid, especially in Bengal, and Government have no control. In the latter class of schools the total annual expenditure on staff and other expenses may be as low as £300, the Headmaster receiving say £70, though figures as low as that are not common outside Bengal.

Standards are prescribed by the University or Board of Education for whose examinations they work. The language of instruction in the upper classes, and of the final examination is English; in the lower classes the vernacular (or often more than one, classes being divided into sections where linguistic diversity prevails) is used. One of the tendencies of the day is towards the substitution of the pupils' mother tongue for English as the medium of instruction and examination, and in some areas, that is the Central Provinces, this has actually been carried into effect. The Calcutta University Commission spoke with no certain voice on this question, and indeed linguistic complexity, the poverty of language in certain vernaculars, the absence of text books, the increase in expenditure necessary where there are more vernaculars than one, combine to render the problem difficult. But the change is right and inevitable wherever it is practicable, for the deficiencies of the high school product are undoubtedly in part due to the fact that the student learns, owing to the system, to use words before he understands the thing behind the word for which it stands.

Severely vocational in its aims as the ante-room to the University, and so a necessary conduit pipe towards Government service, it has been in the past unduly limited in its outlook and aims. Under the stimulus of modern ideas, it has seen interesting intruders—manual training, drawing, music, boy-scouting, drill, compulsory games, school gardening, agricultural work, spinning, first aid courses, all of which have no examination value, and are consequently received without enthusiasm by the parent. In some schools, not one of these intruders finds a place, and every single activity of the school directs itself towards the ultimate examination which is its sole *raison d'être*.

Science has obtained an entry, and is welcomed since it can be made to count in examinations, but it is expensive and is not very commonly found—very rarely indeed, for instance, in Bengal. Religious teaching generally is absent except in Moslem Schools and a certain number of communal institutions, and a substitute in direct moral training has not been easy to introduce. It is agreed, to quote Mr. Mayhew, that

in the absence of religious foundation the formation of character must depend on bringing out the moral significance of the humanities, as taught in schools and colleges, and still more on the development of the corporate idea of school and college life.

But alas! the "humanities" have but little place in the schools; "the severely utilitarian treatment of the English language and literature, and the inadequate teaching of vernaculars and classical literature" affording but little opportunity for the illustration of ethical principles.

IMPROVING STANDARDS

Such as it is, the high school has come to stay. Education departments

do what they can to enforce increasingly improved standards, though with inadequate funds; and owing to an absolute lack of control of any kind over those schools which take no aid, they cannot do all that they would like to do. The other controlling authorities—Universities and the Boards of Education—do their best, but they cannot enforce a standard which schools cannot afford, or for which public opinion is not prepared. Training Colleges, all too inadequate in number, aim at training teachers, though handicapped by opinions analogous to those of the Bengal Retrenchment Committee, of 1922, which declared that teachers were born and not made, and proposed their abolition.

The greatest difficulty is the parent, who suspects any activity not directly concerned with success in examinations, and is reluctant to pay for it. But there are encouraging signs, of which the growing demand for physical training is one. But though the obvious policy is the gradual improvement of the high school system, there are not wanting signs that there is a gradual awakening to the fact that if India is, as seems probable, to produce, in increasing number, men who will hold His Majesty's Commission, and hold the higher civil posts, a better type of school more adequately designed to the making of men and not merely for the production of a successful examinee must come into existence at least in small numbers.

The Hastings House attempt at the creation of a "Public" School on English lines failed; but the late Hon. Mr. S. R. Das's renewed attempt, and his successful appeal for a large private endowment, shows that the conception of a school, which will aim primarily at character formation, is catching hold of the imagination of some of the

leaders of modern India. Dissatisfaction with the limited outlook and aim of the high school takes other forms. Leaving aside the abortive attempt at the creation of "national" schools under the inspiration of Mr. Gandhi, we may note such interesting experiments as that of Dr. Tagore at Bolpur, where under the shade of trees and in an atmosphere of religion and culture a modern Indian conception of what a school should be is worked out in practice.

The Mission schools too present a variant of a valuable kind, especially in the so-called vocational middle or high school which aims at economic uplift through the school, though their emphasis on Christian ethics and religion must divorce them somewhat from meeting fully the national conception of the ideal school. The Chiefs' Colleges are schools for the aristocracy and valuable assets to India. The Moslems who never till comparatively recently cared much for the English high school are experimenting in Bengal, with the full support of Government, with a type of reformed Madrasah, which, while basing itself on Islamic religion and cultural subjects, imparts a knowledge of English and the ordinary school subjects, history, geography and so on. And, while on the subject of Madrasahs, let us not forget, that a large number of schools of a communal nature, survivors of the old pre-English type in which Sanskrit and Islamic learning respectively without the intrusion of English or English subjects in any shape or form have survived from the cold shadow of the neglect of 1835 into the genial tolerance and sometimes active patronage of 1928. The Arabic Department of the Calcutta Madrasah and the Tol Department of the Sanskrit College of Calcutta, maintained entirely by Government, exist

to prove that the policy of Macaulay was not carried out without exception.

OTHER TYPES

It is impossible in this short review to do more than mention the other types of education which may be designated as secondary. There is a special type of education for European and Anglo-Indians conforming more to the English home model, many of the schools being residential, while most Indian schools are mainly day-schools. The education of Europeans, unlike the education of Indians, has not been handed over to Indian control under the reforms, being subject to a Member in Council.

Girls' secondary education (Indian) is a subject of very small dimensions, only 35,000 in all India proceeding beyond the primary stage. The number of girls' high schools in India is 236, there being also 252 middle English and 446 middle vernacular schools.

The problem of the creation of the right type of girls' secondary school is a very real one, and recent women's conferences, have given it some attention.

Indian public opinion is slowly changing from its former attitude of positive dislike to the education of women, and is progressing through apathy to cordial coöperation.

There is great diversity of opinion as to what should be taught, but when the local high school examination is the university Matriculation it is useless to attempt to frame any curriculum which does not lead to it.

The people of Bengal, wrote an Indian Inspector, seem to appreciate the Matriculation certificate more than any useful practical course of studies and the girls set their hearts in passing the Matriculation.

There are many difficulties in the way of the increase and improvement of

girls' education, but the future is full of hope. Such institutions as the Queen Mary's College, Lahore; the Seva Sadan Society's School, Poona; the Gokhale Memorial Girls School, Calcutta; and many others, make it clear that women's education is not by any means being stereotyped in one mould, and that we may hope with some confidence for more individuality than is presented by the boys' high schools. Good work too is done in the middle schools, both those which teach English and those which teach modern subjects through the medium of the vernacular. As so many girls owing to the custom of early marriage never go beyond the middle stage, these schools possess special importance.

PRIMARY EDUCATION

But what of the vast and appalling problem of primary education? What the problem is can best be realised by the quotation of the first sentence in Mason Olcott's book, *Village Schools in India*. One-sixth of the human race lives in the villages of India. The villagers of India number 286,467,204. They live in 685,665 census villages, averaging 418 each. And this takes no account of that 10 per cent of the people who are classed as urban.

For these, so far as British India is concerned, there are 175,596 primary schools. In towns, these schools may sometimes be adequately organised and staffed; but the number of such is few. A bird's-eye view of the primary school system may be obtained from the table, on the following page, of the number of pupils in the first six classes of the recognised schools in British India in 1925. In other words, "half the pupils in general institutions below college grade are in the first class," and never reach the stage of literacy, so that the figures of school attendance are cer-

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tainly deceptive, unless read with an understanding of the meaning below the figures. Over 4,000,000 children in the bottom class are represented in the fourth by 668,345 and 367,824 in the fifth, and it is doubtful whether any child who does not study long enough, or progress well enough to reach the fourth class, attains useful literacy and retains it in after life.

Class	Number	Per Cent of Total	Loss from Preceding Class
I.....	4,671,111	52.8
II.....	1,401,585	15.8	3,269,526
III.....	984,358	11.1	417,227
IV.....	668,345	7.5	316,013
V.....	367,824	4.2	300,521
VI.....	237,012	2.7	130,812
VII-XII....	522,221	5.9

Figures are taken from *Education in India* (1924-25).

HANDICAPS

The causes of this unsatisfactory state of things are manifold. First, the cultivator does not value education; the school is a convenient place in which to place the child when it is very young; as soon as it becomes old enough to be useful in the field, he withdraws him from school. Next the remuneration available for the teacher is so poor that good men cannot be attracted to the work, and the schools are therefore ordinarily not good. Women who in many countries are the foundation of the primary school system are not available as teachers. The state grants are inadequate, and taxation, either provincial or local for the spread of primary education, is generally difficult.

The middle classes are apathetic on the subject, there is no real enthusiasm.

The very conditions of the problem—the smallness of the village—often necessitating a one-teacher school of 30 or 40 with five classes, set the reformer a stupendous task. If the school is not almost at the door, the parent will not send his child. Finally, there is no doubt that, economically speaking, the villagers often need their children's labour, if they are to be solvent, so that compulsory attendance at school would ruin many a family.

It is obvious that the problem which faces the educational administrator in India is appalling in its dimensions. Universal compulsion is impossible—funds are not available; if they were, teachers are not available; and if both were available, the children would not at least in many cases be available, for numerous families deprived of the work of the children would go bankrupt.

Primary education is in the main controlled and administered by District Boards and Urban Municipalities, which in return for grants from the Provincial Government conform to the rules and regulations of the Provincial Education Department. The local bodies allot grants, after considering the reports of the Departmental inspecting staff, having no staff of their own. In some cases they have their own inspecting staff. Schools are mainly private schools, aided by grants which may be taken away if they fall below a reasonable standard. Many schools exist without aid of any kind. The local Boards supplement the Government grant by contributions of their own.

COMPULSORY EDUCATION

Legislation in recent years has aimed at authorising the introduction of compulsory education by local option. Bombay led the way in 1918, and Bihar

and Orissa, Bengal, the United Provinces, the Punjab, the Central Provinces and Madras followed suit. The acts differ in their detail, but in general the position is that if a local body, at a special meeting convened for the purpose, decides by a two-thirds majority in favour of the introduction of compulsion in any part of the area in its control, it may submit a scheme to Government to give effect to its decision, such scheme necessarily involving expenditure, part of which, if not all, must necessarily fall on the local body, to be raised by local taxation. Under these acts a certain amount of sporadic compulsion has been introduced, but not a great deal, that is, the first case of compulsion in Bengal was in Chittagong Municipality in 1928, though in some other provinces the number is much more encouraging.

In general with exceptions here and there, Punjab, Madras, compulsion had made little headway, and Bengal had by 1927 come to the conclusion that without compulsory local taxation enforced by the central provincial authority no headway could be made, especially in the rural districts. A rural Primary Education Bill which aims at raising money by compulsory local taxation, and at a wide extension of education on a compulsory basis in rural areas was drafted, but it is not yet an Act. In this way Bengal has reacted to the view commonly expressed that the various "local bodies" cannot be expected to incur the odium of introducing a coercive measure involving taxation, and that the initiative must come from Government.

So we have passed from 1835 to 1928. In 1835 all funds were to go to English education to educate the middle classes who were to pass on knowledge to the toiler. In 1854 Sir Charles Wood's despatch acknowledges

the responsibility of the Government to the teeming millions, and its desire to combat the ignorance of the people, which may be considered the greatest curse of the country.

A system of grant in aid to privately managed schools was directed. In 1882 the Education Commission declared

primary education that part of the whole system of public instruction which possesses an almost exclusive claim on local funds set apart for education, and a large claim on provincial revenues.

In 1904 the Government of India said:

The Government of India cannot avoid the conclusion that primary education has hitherto received insufficient attention and an inadequate share of the public funds; it should be made a leading charge upon the provincial revenues; in those provinces where it is in a backward condition, its encouragement should be a primary obligation.

In 1913 the same Government said:

The position that illiteracy must be broken down and that primary education has in the present circumstances of India a predominant claim upon the public funds, represents accepted policy no longer open to discussion,

but the momentum of 1835 is still strong, and the village is still illiterate, for the gulf fixed in 1835 between the newer and the older schools still yawns, and the middle classes are still in desperate need of what money there is for their own system of schools.

There is a direct clash of interest, for in the absence of *ad hoc* taxation which would leave enough for all, money spent on primary education means little or nothing for that special type of schools which meet the needs of the middle class. For money is scarce and needs are many, and squar-

ing the circle is a simple operation compared with that of properly financing either primary or secondary education, let alone both, on the existing provincial revenues. India cannot

have better schools or more schools than it is willing and able to afford; the question is can it and will it afford them? Let the reformed Governments give the answer.

The Indian Universities

By SIR P. J. HARTOG, C.I.E., M.A., LL.D.

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"EDUCATION," writes Professor F. W. Thomas of Oxford, one of the most distinguished of Indologists,

is no exotic in India. There is no country where the love of learning had so early an origin or has exercised so lasting and powerful an influence. From the simple poets of the Vedic age to the Bengali philosopher of the present day there has been an uninterrupted succession of teachers and philosophers.

ORIGIN AND HISTORY

In centuries of which we have no exact chronological record Taxila in the northwest, and, later, Nalanda (near Patna) in the northeast became great centres of learning, and have been called universities. But the modern universities of India are entirely of western origin. During the struggles of Hindus with Muslim invaders from the beginning of the thirteenth century onwards, and later of Moghuls with Marathas, there was no evolution of guilds of teachers like that which led to the creation of European Universities, in the latter part of the Middle Ages; and at the end of the eighteenth and beginning of the nineteenth century, when the East India Company began to direct its attention to the problem of education, Indian learning was at a low ebb.

The scientific study of Sanskrit was begun by two Englishmen Sir Charles Wilkins and Sir William Jones (a Judge of the High Court) under the influence of Warren Hastings. European missionaries in Bengal were the first to print vernacular languages in their own script. But Indians led by

Raja Ram Mohan Roy, the founder of the Brahmo Samaj, began to take part in the movement for higher education on western lines early in the nineteenth century; and the Hindu College, first called the Vidyalaya, which later developed into the Presidency College, Calcutta, was founded in 1817 by Roy and David Hare, a British watchmaker. It was the first modern college in India. It is a fact significant of the condition of oriental studies in India at the time, that Ram Mohan Roy, himself a Sanskrit scholar, protested against the foundation of the Sanskrit College in Calcutta by the Government as a retrograde step. After the Hindu College, other colleges, at Serampore, Hooghly, Dacca, Krishnagar, Berhampur, Madras and Bombay, were founded between 1827 and 1853. The famous despatch of Macaulay, then legal member of the Government, in 1835 led to the diversion of Government funds from the encouragement of the classical Indian languages, Sanskrit and Arabic, to education through the medium of English, and from that date till now the greater portion of education on western lines in the higher classes of schools, in colleges and in universities, has been conducted in English.

The great despatch of 1854 from the Directors of the East India Company, signed by Sir Charles Wood (grandfather of the present Viceroy), is generally regarded as the charter of Indian education. It led directly to the foundation of universities, on the model of the existing University of London, at Calcutta, Bombay and Madras in

1857, immediately after the Mutiny. They were affiliating and examining universities; in other words, their functions were limited to the examining of students from affiliated colleges, of which some were established and maintained by Government, and others were "private" colleges, in some cases aided by Government. In 1882 the University of the Punjab (with headquarters at Lahore) and in 1887 the University of Allahabad (which was given teaching powers, but did not use them for many years) were founded on the same model.

The colleges under the universities and the number of students multiplied greatly, and numerous defects of the system became apparent. Lord Curzon, as Viceroy, set up a University Commission in 1902, which resulted in the Universities Act of 1904. New and more stringent rules were laid down for the recognition of colleges, which led to great improvements in the staff and equipment, and the housing of students in college hostels. It also provided powers for all the universities to undertake teaching, of which little use was made till 1917, when Calcutta set up a scheme of "post-graduate" teaching, consisting of teaching up to the M.A. standard, with some additions of special chairs and other teacherships for research.

Before dealing with the new movement which began in 1917, two colleges must be mentioned which were created to serve the purpose of special communities. From the date when Persian was abandoned as the language of the courts (about 1830), the Mahomedans had looked askance at western education as likely to lead to infidelity to Islam. But in 1875, Sir Syed Ahmad, a Mahomedan of very high character, despite great opposition from his orthodox coreligionists, created the Mahomedan Anglo-Oriental

College at Aligarh which has had an immense influence on the Moslem community, and for a time was probably regarded as the first residential college in the whole of India. The influence of the college in its early days in bringing Mahomedans, both into Government service and into the stream of political life, cannot be overrated. The Hindu community did not wish to be left behind, and the Central Hindu College, Benares, was created, in 1898, largely through the influence of Mrs. Annie Besant, as an All-India Institution for Hindus, though both colleges admitted students of beliefs other than those of their founders. Both institutions were affiliated to the University of Allahabad.

In 1915 the Central Hindu College was incorporated as the Benares Hindu University; in 1916 was founded the University of Mysore, the first university to be set up in a Native State; in 1917 a new affiliating and teaching university (split off from Calcutta) was established at Patna, and early in 1918 the Osmania University in the native state of Hyderabad was created, with the special feature that while English is a compulsory subject, the general medium of instruction is Urdu (Hindustani), the vernacular spoken by the largest number of Indians.

EDUCATIONAL STANDARDS

During the first fifteen years after Lord Curzon's Commission there was an immense growth in the student population, but this had been accompanied, in the general belief, by a great lowering of the standards, especially in the largest of the universities, that of Calcutta, which in 1917 had 58 affiliated institutions and 28,000 students, while the total for all India was 58,000 students, a very large number compared with the literate population.

In 1917, in the middle of the Great War, the Government of India, Lord Chelmsford being Viceroy, set up a new Commission, presided over by Dr. (now Sir) Michael Sadler, to enquire and report on the University of Calcutta (and also incidentally on University education elsewhere in India). The Commission sat for seventeen months and produced a report in five volumes (exclusive of evidence and memoranda) which gives a comprehensive and critical survey of the condition and problems of education in Bengal, and which has had a great influence on Indian education in general, though the constitution of the University of Calcutta, for reasons of which space does not allow the discussion, has remained "unreformed." There can be no doubt that the Government, in setting up the Commission during the war, had clearly in view the democratic reforms which came into force afterwards and the desirability of raising the standard of western education in India, to meet the needs of western political ideals.

The report (Chapter LII) stated that

the University system of Bengal is . . . fundamentally defective in almost every aspect, and in so far as it does good work, does it in spite of the method of organisation now in vogue,

and what was true of Calcutta was certainly true, though in perhaps less measure, of other affiliating universities in India. It recommended drastic changes in the system of secondary education and the splitting off of the first two years of University instruction as belonging to secondary rather than higher education, and pointed out *inter alia* that the numbers of students in the Calcutta University were too large to be efficiently dealt with by a single organization, that the methods of mass-instruction were mechanical, that

the conditions of most teacherships were so bad that few men of the highest ability were attracted to the University, and that owing to a University degree being required as the sole credential for public employment, too many students used the University merely as an avenue for such employment. It also pointed out that the reform of the mechanical examination system, which dominated the whole teaching in Bengal, was essential for any reform.

The Commission made certain general recommendations applicable to all future universities in Bengal (which contains some 45,000,000 inhabitants) and especially recommended the institution of three-year honor courses taken after the Intermediate examination, and that the pass course should be later extended to three years.

It further recommended that a new university of a residential and non-affiliating character should at once be set up in Dacca, the second city in Bengal. The establishment in 1920-21 of Dacca University on the new lines recommended by the Commission was the first important effect of the Sadler Report in Bengal. A number of other universities were also created after the issue of the Report and their organization was influenced by it: the Aligarh Muslim University (1920), Rangoon University (split off from Calcutta, 1920), Lucknow University (split off from Allahabad, 1921-22), Nagpur (also split off from Allahabad, 1922-23), Andhra (split off from Madras, 1926), Agra (split off from Allahabad, 1927, leaving Allahabad as a teaching and unitary university).

The Madras University Act of 1923 must also be mentioned as a result of the Sadler Report. It was designed to establish a teaching and residential University in Madras whilst enabling the University to continue to exert due control

over the quality of the teaching in its constituted and affiliated colleges

A new Bombay University Act is under consideration. The large increase in the number of universities, from 1915 to 1927, has tended, in the opinion of some critics, to a lowering of examination standards. But, in the view of the writer, although there have been fluctuations in standard in some centres, there has been no general lowering of the examination standards. The concentration of the higher work at the headquarters of affiliating universities, like those of Calcutta and the Punjab, and to a minor extent in other places, that is, Bombay and Madras, and the creation of real centres of University teaching in the newer universities has led to a very great improvement in the standard of University teaching and an active production of research which hardly existed twenty years ago in India.

With a few marked exceptions, University teachers in those days regarded the advancement of knowledge as outside their functions, and the opinion has been expressed, even in recent years, that Indian Universities only need teachers of the kind that are required by English public (that is, secondary) schools.

INTELLECTUAL DEVELOPMENT

The great difficulty of the affiliating universities is that they are bound to keep the level of their examinations such that it inflicts no injustice on the weakest of the affiliated colleges. The evil would not be so great if all the universities restricted the students of outlying and weakly equipped affiliated colleges to preparation for pass degrees, and recognised that the preparation of students for honour degrees and for the master's degree (called in India "post-graduate" work) requires an equipment in the shape of libraries

and laboratories, and of teachers capable of advancing knowledge, which it would be wasteful to provide for a few students in each of a large number of centres. Both in Calcutta and Lahore the University teaching staff for the more advanced work is supplemented by the more highly qualified among those teachers whose main work is in the affiliated colleges in these cities.

In view of the immense size of India and the smallness of the financial resources devoted to higher education, the affiliating system, with all its disadvantages is bound to continue for a considerable time. But there can be no doubt that the new unitary universities, like Allahabad, Dacca and Lucknow, and the departments of the older universities, where the teachers are appointed not only to teach, but to conduct research, are the only Indian University institutions which can maintain a level comparable to the level of universities, say in France or Germany, or to that of the great provincial universities in England (I purposely refrain from comparison with American Universities in which the variations of standards are so great).

The number of scholars and men of science of the first rank teaching in, or produced by, Indian Universities is still small, but it is growing and one may look forward to a future when Indian scholars and men of science will play a part in the intellectual development of the world more comparable than at present with the vast population of India.

In recent books, written both by Europeans and Indians, there has been (in the opinion of the writer) a tendency to over-estimate racial differences in the field of intellectual activities. But, to quote again Dr. Thomas, the reason is pan-human. There is no difference of race in dealing with the

physical and natural sciences; there is no such thing as British mathematics or Indian zoölogy; and, to turn to a wider field, few educated Indians regard either the Bible or Shakespeare as alien to their minds and hearts. The critical methods which India had to learn from the West have not been and need not be destructive of reverence for the great works of Indian philosophy or literature. On the contrary, the study of Oriental subjects is being steadily promoted in the Indian Universities by the methods which have yielded such fruitful results in the West. In this connection one feels bound to quote the name of that great oriental scholar Sir R. G. Bhandarkar, who led the way in the adoption of critical methods in oriental research in India, and whose name has been perpetuated in the Bhandarkar Oriental Institute, Poona. The influence of the west has been to produce a renaissance in oriental studies in India.

An attempt to create "National Universities" in connection with the non-coöperation movement which began in 1919 has led to disappointingly meagre results; in part because "recognised degrees" are made a qualification for many branches of Government service, but probably also in part because they were unable to show any departure from the existing system capable of arousing widespread enthusiasm. The only important private institution of an exceptional character on University lines is the *Ashram* of Dr. Rabindranath Tagore, at Santiniketan in Bengal, where a small number of distinguished scholars, including visiting teachers from Europe, lecture to small audiences. Interesting as an experiment, it cannot be said that it has yet had any marked influence on Indian thought or culture. But Dr. Tagore has collected an ad-

mirable library, and the future of Santiniketan is full of interest. It might play in Bengal a part similar to that of the College de France in Paris.

One other important and well-equipped institution, which though not technically a university gives scientific instruction of an advanced character and promotes research, is the Indian Institute of Science, Bangalore, established about 1906 under a trust by Sir Dorabji and the late Sir Ratanji Tata, of Bombay. The "Visitor" is the Viceroy of India.

CRITICISM

The most general criticism of the Indian educational system is that it is "top-heavy," by which is meant that the development of university and secondary education is out of all proportion to the development of primary education, and further that it is too exclusively literary.

With regard to the first point, the immense need for an extension of primary education in India must be conceded; but the writer is unable to agree that university and secondary education should be curtailed for this purpose. There is still almost as much need for improving the quality of university education as of increasing the quantity of primary education. It has been rightly said that the base of the educational pyramid needs to be broadened; its apex needs to be more finely tempered.

The predominance of literary over technical education is due to two causes which are not independent: (1) that manual labour has been regarded as degrading by the higher castes, and (2) that the industrial system of India is on a small scale compared to the size of the country and population, over 70 per cent of the population being dependent on agriculture. But the

distaste for manual labour among the educated classes, though still strong, is tending to diminish.

ORGANIZATION AND RELATION TO GOVERNMENT

The first universities created in India by the Acts of 1857, as modified by the Act of 1904, were managed by large senates consisting of as many as 100 persons, with a small executive called the Syndicate. The great majority of the members of the Senate were nominated by the Government, the Viceroy was the Chancellor and the Vice Chancellor was appointed by the Government. It has been a characteristic of the system that a very large number of the Senate are not University teachers and that the teaching institutions of the University are not directly represented on the Senate. This system, with a few modifications, has been retained by some of the older affiliating universities, though the number of actual teachers in the University Senates is greater than at first; but a new type of constitution, based more or less on the model of the English provincial universities, in which the teachers occupy a much more important position, has been adopted in accordance with the recommendations of the Sadler Commission in the new residential universities like Dacca, Lucknow, and Allahabad (in its most recent form.)

In these universities the executive powers, in matters not entirely academic, are entrusted to an executive council, on which the teachers are represented, academic matters are dealt with by an academic council consisting wholly, or mainly, of teachers and by faculties and departments of study, also mainly, or entirely composed of teachers, and these are the most important bodies concerned in carrying on the affairs of the University.

There is also a large body, the Court, of which the members are partly nominated by the Government, partly by teachers and partly by the graduates, which alone has the power of making or revising the statutes, and which also has certain powers of rejecting changes made in minor University rules, called ordinances. The annual budget estimate has also to be submitted to the Court, which can make such recommendations as it sees fit to the Executive Council, but without binding power. The Court in Dacca can also pass resolutions making recommendations on the general management of the University.

The Executive Council at Dacca communicates its minutes to the Court, though it is not obliged to do so, and may make an exception in the case of confidential matters. The Court only meets twice or thrice a year, but its existence ensures a publicity to the actions of the Executive Council which is useful in many ways, and the interest taken by the general public in India, in University matters, is considerable. The new constitution has, in the opinion of the writer, amply justified the changes made. A body constituted like the University of Dacca readily adapts its curricula to new developments in the various branches of study, and has in general an elasticity lacking in the constitutions of older universities. In some universities like Benares and Aligarh, large executive powers are entrusted to a Court which meets at distant intervals. It is obvious that if such powers were used to any considerable extent, the whole working of a university might be endangered by decisions made by a chance vote.

In practice, constitutions of this kind, which are ultra-democratic in appearance, are liable to the danger that the whole power may be left in the hands

of one or two persons, in whom the majority for the time being have confidence; they resemble Governments by *plébiscite*. At the University of Aligarh even the appointment of executive officers, like the Registrar, is left to the Court, and at this University the appointment of the Registrar is for five years only. The constitutions of the Indian Universities are on their trial and no definite opinion can be pronounced on them at present. One of the points regarded as most contentious is the question whether the Vice-Chancellor should or should not be an honorary officer or a full-time paid officer; and the question whether he should be appointed for a long or a short period is also under discussion. The system of an experienced man as a paid Vice-Chancellor up to the age of retirement, common in the large provincial English Universities, has not been tried.

GOVERNMENT CONTROL

The political reforms of 1919 transferred the subject of education from the central to the local Governments, and under the local Governments to the control of ministers responsible to the local legislative councils, and the Chancellor of a provincial university is, as a rule, the Governor of the province *ex-officio*. The sanction of the Chancellor is generally required for all changes in statutes and sometimes of ordinances. Moreover the Chancellor, in practice, takes advice from the Government department of education, so that this power of the Chancellor means in effect a control by Government over the universities created by legislation. At the present moment there are no universities of any magnitude or importance other than those so created.

The Universities of Aligarh, Benares and Delhi remain under the aegis of the central Government.

Provision is made in a number of universities for visitation or enquiry by the supreme authority and for changes to be made as a consequence of such enquiry by that authority, but that power has not been exercised up to the present (March, 1928).

Apart from constitutional control, the Government exercises control by means of the grants made to the universities, and voted by the legislative councils. The whole of the University finances would obviously be disorganised, and it would be impossible to provide any security of tenure for teachers if the annual votes were liable to capricious decisions of a legislature, influenced by chance incidents, but so far there have been no sudden reductions of grants. The Bengal legislature passed in 1925 an Act providing a statutory annual grant of 5.5 lakhs (550,000) rupees to Dacca. It is possible that the finances of other universities may be established in a similar way, as the legislatures acquire confidence in the governing bodies of the universities.

ARTS COLLEGES.

The term "Arts College" is used in India to denote a college which prepares students for degrees in arts and science but does not give professional training.

The ordinary University course for the B.A. and B.S. degree in Indian Universities is a four years course taken subsequently to the matriculation examination, for which the inferior age limit is 15 or 16. An "intermediate examination" is normally taken at the end of two years (and the final examination for the pass degree, and sometimes for the honours degree, at the end of another two years). The Sadler Commission reported that the work of the first two years was, in effect, school teaching, for which the mass-

lectures of a university were unsuitable. They recommended that the intermediate examination should be treated as the entrance examination to the universities and that a new kind of institution should be founded to take over the two years of intermediate teaching, with improved methods akin to those of school teaching and especially improved teaching in English and some technical and commercial teaching, with a view to diverting a certain number of the students into technical and commercial and agricultural careers.

INTERMEDIATE COLLEGES.

In Bengal, the only intermediate colleges created have been two, in the Dacca University area. But a number of such colleges have been set up in the United Provinces of Agra and Oudh and in the Punjab. In Bihar and Orissa the experiment has been tried and abandoned. The colleges have in some cases been formed with a two year course only, and in others with a four year course, including the two highest years of the "high school" as well as the two "intermediate" years. The latter system is probably the more efficient. The strengthening of the staff for the intermediate years was an essential feature of the Sadler Scheme. Without such strengthening the scheme was doomed to failure. In the United Provinces (outside the jurisdiction of the communal and "All-India" Universities of Aligarh and Benares) and in the Dacca University area, secondary and intermediate education have been placed under the control of special Boards for Secondary and Intermediate education set up for this purpose, and the Intermediate examination, as well as the High School examination, corresponding to the old Matriculation examination, have been placed under the jurisdiction of these boards,

on which the universities are represented.

MISSIONARY COLLEGES.

Missionary colleges, wholly or partly financed by various Christian communities, have played an important and pioneering part in University education in India from the beginning of the nineteenth century. Like other "private" colleges, they now receive grants from the Government, without which it would, in most cases, be impossible for them to survive; but their European and American teachers are, as a rule, content with salaries much below that which they would receive if attached to Government colleges, and the colleges can, therefore, be run at a relatively low cost. It should be added, however, that only a small proportion of the teachers belong to the missionary community and that in many cases the majority of the staff are Indians who profess Indian religions.

The majority of these colleges make no attempt to proselytise, but seek to maintain a "religious atmosphere" which is valued by many parents belonging to the Hindu and Muslim communities who have no desire whatever that their sons should abandon their own faith. The missionary teachers in these colleges often hold high positions in the general organisation of the universities.

Among the colleges supported by American religious organisations should be mentioned the Forman Christian College, Lahore, and the Isabella Thoburn College, which forms the Women's Department of the University of Lucknow.

MEDICAL SCHOOLS

Medical education is given in "medical schools" which are not of a University standard and do not confer

degrees, and in the medical colleges attached to the Universities of Bombay, Calcutta, Lucknow, Madras, Mysore, the Punjab and Rangoon. The ordinary courses are based on European models and extend over a period of five or six years, or even longer. An effort is being made to modernise the Ayurvedic or Hindu system, and the Unani or Muslim system of medicine in certain centres.

ENGINEERING COLLEGES

There are engineering colleges at the Universities of Benares, Bombay, Calcutta, Madras, Mysore, Patna and Rangoon. The courses for the Bachelor's degree as a rule extend over four years. In some of the universities, that is, Benares and Madras, the degree is not conferred until at least a year has been spent in approved practical work, after the passing of the final examination.

AGRICULTURAL COLLEGES

Although about 70 per cent of the Indian population are dependent on agriculture, the average size of the holdings is small, and there is only a small demand for trained agriculturists of University standing outside the Government service. There are four agricultural colleges which prepare for a University degree, all managed by the Government, at Poona (University of Bombay), Coimbatore (University of Madras), Lyallpur (University of the Punjab) and Nagpur. There is also a chair of Forestry at Rangoon.

LAW SCHOOLS

A degree in law is necessary for the Indian student, who is not a barrister, to practise in the law courts. No student is as a rule allowed to enter on a course in law until he has taken a degree in arts or science. The course in

law generally extends over three years, but the lectures are so arranged (in the early morning or in the evening) that the work does not fully occupy the time of the students; and many students are allowed to proceed to the M.A. degree and a law degree simultaneously. In 1925 the fifteen law schools had over 8,000 students.

SCHOOLS OF EDUCATION

University training in education is generally given in training colleges, affiliated to universities of which there were, in 1925, twenty-two, with about 1,000 students.

HIGHER EDUCATION OF WOMEN

Women are generally admitted to the Indian Universities on the same terms as men, but the number of women students is very small.

In some universities, that is, Calcutta and Madras, there are special colleges for women where they are taught separately during the undergraduate course. They are admitted to the medical colleges, and there is a special medical college for women of high standing, the Lady Hardinge Medical College at Delhi, affiliated to the University of the Punjab.

RELATIONS OF UNIVERSITIES WITH SECONDARY EDUCATION

For the vast majority of Indian students the only method of entering a university is by passing the Matriculation examination as a pupil of a recognised "high school," though a small number are admitted as private students. The recognition of high schools rests with the universities, except in areas where there are Boards of Secondary and Intermediate Education, and hence the influence of the University over the high schools and especially over their curriculum is very great. But the universities have funds

neither to aid the schools nor to inspect them. The Government, on the other hand, both aids and inspects the schools, and the universities have to depend for any detailed knowledge of the working of the schools, within their area, on Government inspection. This system of dual control was severely criticised by the Sadler Commission.

COST OF UNIVERSITY EDUCATION

The cost of University education in India is small for the students in arts and science. The class fees vary from about Rs. 72 to Rs. 144¹ a year, the fees being paid in monthly instalments; and the average hostel expenses vary from Rs. 15 to Rs. 50 a month. The average yearly fee in "arts colleges" for the quinquennium 1917-1922 was Rs. 82.5. The fees for courses in medicine and engineering are considerably higher. The fees above mentioned do not include examination fees.

The total cost per student is, as in other countries, largely in excess of the fees paid by him and varies greatly with the character of the college or university. For the quinquennium 1917-1922, in the United Provinces of Agra and Oudh, the annual cost of educating a student in a Government college was about Rs. 652, in an "aided college" Rs. 370 and in an unaided college Rs. 356. In Bengal the corresponding figures were, for a Government college, Rs. 375, for aided colleges Rs. 127 and for unaided colleges Rs. 89. The range of cost in the unaided colleges in Bengal varied from Rs. 57 to Rs. 270. The lowness of cost in many institutions is due to the paucity of the salaries paid to the teachers and the inadequate provision of books and equipment. It should be added that the actual cost in the Government colleges is higher than the figures given,

¹ At the present rate of exchange (March, 1928) 1 rupee equalled .274 dollars.

as these take no account of the cost of pensions to the staff, maintenance of buildings, etc.

SALARIES OF TEACHERS

The salaries paid to teachers vary very greatly. Up until recently the superior posts in the Government colleges were largely staffed by the Indian Educational Service, mostly consisting of European officers whose salaries were much higher than the average salaries in private colleges. But, with the transference of the subject of education to local Governments, recruitment to that Service has been stopped. Other Government posts have been filled by officers of "provincial educational services" with a salary scale smaller than that of the Indian Educational Service, and minor posts, like demonstratorships, from "subordinate educational services."

The service system is obviously unsuitable for universities in which appointments to higher posts are filled by men who have already proved their capacity by long teaching experience and original production. The normal salary for Indian members of a University staff is from Rs. 750 to Rs. 1,000 per mensem for a Professor and Rs. 400 to Rs. 800 for a Reader; but the rates vary so greatly in different universities that no general statement can be made. The salaries of teachers of oriental languages, such as Sanskrit, Arabic and Persian, of all ranks are generally much lower than those of teachers in other subjects, except in universities like Dacca where a uniform scale has been adopted. Where it is desired to secure European teachers (who have two homes to maintain), *ad hoc* appointments are sometimes made with salaries in excess of those paid to Indian teachers. In most provinces the number of European teachers is rapidly diminishing, at the present moment, largely

owing to the cessation to recruit for the Indian Educational Service.

The total expenditure on University and Intermediate education for males in British India, with its population of 247 million people² (of whom only 84 per thousand of those above 5 years of age are literate) was in 1924-1925 (the last year for which returns are available) about 27,500,000 rupees (exclusive of expenditure on buildings); the grand total for expenditure of every kind on male education being returned as 181,000,000 rupees, of which 88,000,000 rupees were expended by the Government.

The corresponding figures for education, specifically provided for females, are as follows: for University and Intermediate education, Rs. 242,000; for education of all kinds, Rs. 2,457,000.

PENSIONS AND PROVIDENT FUND

University teachers in Government service receive a pension on retirement after a certain number of years service. The ordinary retiring age is 55. In the newer Universities it is usual to give university teachers the benefit of a Provident Fund bearing compound interest to which the monthly subscriptions amount to from 10 per cent to 20 per cent of the monthly salary, and of which not less than half is as a rule subscribed by the University. In the majority of private colleges there is neither a pension nor a provident fund.

TENURE

The tenure in Government colleges is generally a secure one; the tenure in private institutions is, as a rule, insecure. Some recent University Acts have made it a condition that all University appointments shall be made

on written contracts. Such contracts are sometimes for a term of years, and others are tenable with or without a period of probation, up to the age for retirement.

CONDITIONS OF RESIDENCE

The average Indian student is very poor, although there are, of course, exceptions. The general rule of universities and colleges is that the students must live either in university hostels or under "approved guardians" who may be their own parents or other relatives. The hostels are of the simplest character. A student is fortunate if he has a cubicle to himself, say 10 feet by 8; in many cases a room (of larger dimensions than those quoted) is shared with one, two, or three comrades. Each student has, as a rule, only a bed, a table, a chair, a small shelf for books, and pegs for hanging up his clothes. In some large cities, such as Calcutta, students have been allowed to live in "messes" under very unfavorable conditions, but matters are improving in this respect.

RECREATIONS

A considerable number of Indian students play western games, especially cricket, hockey, football and lawn tennis, and their matches attract large crowds of the outside public. An important investigation carried on by the University of Calcutta showed that the general standard of the students' physical condition was unsatisfactory and measures are being taken to improve it. In universities like Dacca, or Benares, where the University has a large area, like that of an American University campus, it is easier to provide for physical culture; in some universities every student has to take part regularly in physical drill or gymnastics, subject to the directions of the University medical officer.

² This is the figure used in the *Quinquennial Review on the Progress of Education in India for 1917-1922*.

LIST OF INDIAN UNIVERSITIES *

Name of University and Date of Foundation	Character of University (Affiliating or Teaching)	Number of Colleges. (Where not otherwise indicated, the colleges are affiliated colleges)	Headquarters of University
Agra (1926-27)	Affiliating Teaching	14 (Maintains One Intermediate College)	Agra
Aligarh Muslim University (1920)			Aligarh
Allahabad (1887; reconstituted 1921)	Teaching Affiliating	19	Allahabad
Andhra University (1926)			Bezwada, Madras
Benares Hindu University (1916)	Teaching	7 constituent	Benares
Bombay (1857)	Affiliating and teaching	26 (besides University School of Economics)	Bombay
Calcutta (1857)	Affiliating and teaching	51 (besides University Law College and University College of Science and laboratories)	Calcutta
Dacca (1920-21)	Teaching		Dacca, Bengal
Delhi (1922)	Affiliating and teaching	7 (these colleges are termed 'constituent colleges'). There is also a University Law Hall.	Delhi
Lucknow (1921-22)	Teaching	3 constituent	Lucknow
Madras (1857)	Affiliating	15 constituent 39 affiliated 15 oriental	Madras
Mysore (1916)	Teaching	5 constituents	Mysore and Bangalore
Nagpur (1923)	Affiliating	1 constituent (for law) 7 affiliated	Nagpur
Osmania University (1918)	Teaching	4 constituent	Hyderabad (Deccan)
Patna (1917)	Affiliating	15	Patna
University of the Punjab (1882)	Affiliating and teaching	36	Lahore
Rangoon (1920)	Teaching	2 constituent 1 constituent; Intermediate College	Rangoon

* Table has been compiled from the *Handbook of Indian Universities for 1927*, supplemented by other sources.

Officers Training Corps have been started at a number of Indian Universities with the help of the Government, and have been successful. A movement to make military training compulsory in Indian Universities has not met with much approval.

A small beginning has been made in the way of social service leagues in some universities, but the movement has not yet attained any magnitude.

There are in all Indian Universities many literary and debating societies, mainly conducted in English, and dramatic societies which produce plays in the vernacular. The dramatic performances attract large audiences, and the plays often last five or six hours and arouse great enthusiasm.

LIBRARIES

The libraries of Indian Universities are on a modest scale compared with those of the United States. The University of Calcutta has a library of about 100,000 volumes, the largest university library in India. It is only during recent years, with the progress in research, that there has been any great demand for scholarly and scientific periodicals in the university libraries, for which the annual grants are as a rule very small. In the new residential universities the libraries are beginning to be better equipped in this respect.

TUTORIAL WORK AND STUDY ABROAD

The amount of individual teaching given in Indian Universities is small compared to that given at Oxford or Cambridge. Under the influence of

the Sadler Report it has no doubt been considerably developed, especially in connection with the new three-year honours courses; but in many institutions the University teacher rarely sees his students except across a lecture table.

A large number of Indian students go to foreign countries especially Great Britain, the United States, Germany and Japan, to complete their studies. In 1925 there were between 1,500 to 2,000 Indian students in the United Kingdom alone.

INTER-UNIVERSITY BOARD

As a result of the Indian Universities Conference held at Simla in 1924, an Inter-University Board was founded, which met for the first time at Bombay in 1925. The Board is intended to facilitate the coördination of University work and has no executive powers. It meets annually at different centres, and all the Universities, with one or two exceptions, are represented on it. It issues an annual *Handbook of Indian Universities*.

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Technical and Vocational Education

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THE history and present position of technical and vocational education in India is perhaps best understood from a review of the circumstances surrounding the establishment and growth of such institutions as are mainly devoted to this important aspect of educational and social policy. "India," however, is too large a geographical unit within which this kind of survey can best be undertaken. Few persons are in a position to make a survey over so wide a field. In what follows consideration is, therefore, mainly confined to conditions obtaining in the province of Bengal, one of the oldest of the provinces of India, and till 1912 the principal location of the machinery of the supreme Government in this country. It can reasonably be said that what is true of Bengal is also largely true of the remaining important provinces of India.

EDUCATIONAL PROGRESS

Broadly speaking, the ordinary educational policy of the Government in India arose from the necessity of educating its own clerical and executive personnel. It was Government agency that supplied the initiative in the early years of the last century, and it is still true that on the whole the responsibility of initiating schemes of educational progress is usually left to official inspiration. In the realm of technical education little also has been done by private agency, though mention must be made of the efforts of non-official bodies such as the Association for the Advancement of Scientific and Technical Education, established in the year 1904, and which has functioned in Cal-

cutta and has given a large number of Bengalee students, approximately 200, technical education abroad.

The other principal, unofficial efforts of a striking character followed from the large sums of money recently left by Sir Rash Behari Ghose and Sir T. Palit and a few other Bengalee gentlemen which have been devoted to the establishment, in the year 1915, of a well-founded University College of Science with professorial chairs in Chemistry and Physics, both Pure and Applied, as well as Mathematics and Botany. A part of these valuable legacies was also devoted to the improvement of a large and well-equipped Technical Institute, established in 1906.

Public attention was first drawn to the question in 1886, when the Government of India gave its opinion that practically no progress of a substantial character was being made in promoting technical education. Sir Anthony—subsequently Lord Macdonell—prepared a memorandum from which it appears that the then only promising institution in the whole of the province of Bengal, apart from certain survey schools giving instruction in the principles and practice of surveying for revenue purposes, was a certain industrial school in the district of Midnapore. This school has long been extinct and its records forgotten. There were apparently other industrial schools then existing in Bengal described as excrescences on the general educational system, with neither plan nor object. It was suggested that all such schools should be subordinate to a central technical institution.

In 1888 the Government of India

published a resolution on this memorandum, and *inter alia* recommended the establishment of technical schools at places where industries were centralised, and in large towns where a demand for superior skill might be said to exist. It was also recommended that each province should carry out an industrial survey, and the question of pursuing a forward policy in matters of technical education referred to a standing committee of educational experts and professional men.

In Bengal this industrial survey was made by an officer of the Civil Service who reported at the end of the year 1890, and the second portion of his report dealing with the subject of technical education made the following proposals:

- (1) The institution of schools for mining students in connection with the coal mining industry.
- (2) The training of mechanical engineers by the introduction of apprentices into the workshops connected with the State Railways.
- (3) The provision of special training for apprentices and intelligent workmen in the railway and canal workshops in Calcutta and environments.
- (4) The institution of improved industrial schools and the encouragement of industrial classes.
- (5) The appointment of an inspector to supervise industrial education.
- (6) Private firms, Municipalities and District Boards to be encouraged to open technical schools.

The report was reviewed by the Bengal Government in 1891, and it was decided to push on with the training of mining assistants, to establish a hostel for the apprentices in the locomotive workshops at Kanchrapara, and to set up a textile weaving school at Berham-

pore. The policy determined upon this report emphasised that the advancement of technical education was not a matter which could be pressed regardless of the demand or of economy, and it was clear that practical progress in this matter was more or less limited to the development of the Bengal Engineering College at Sibpur, for the purpose of training civil engineers for the Public Works Department of Government, and also the Calcutta School of Art. It is significant that progress was made contingent upon considerations of economy and the existence of a demand.

DIFFICULTIES

Important matters of this kind when handled by persons with limited experience and with subordination to considerations of economy seldom get far. In this instance stagnation inevitably followed, as will be clear when it is understood that practically all the recommendations made in the year 1890 have only now been brought to fruition, and only that within the last decade. It is difficult to diagnose the causes of the slow progress made, but judging from later experience it seems clear that the absence of scientifically trained leaders, in responsible positions, and the inability of the few prominent and successful industrialists to comprehend the supreme importance of technical education, and the necessity of putting into effect practical measures for its culture, left matters practically entirely to the pedagogical and other academical interests.

There were, of course, other difficulties to contend with, by far the most substantial of which resided in the lethargy and supineness of the general public. Ambition for an industrial career has never been common in the ranks of India's young intelligentsia. Such application to industrial pursuits

as obtains today is of quite recent origin. Ambition of this kind has had to be generated, and much seed sown has fallen upon hard and unreceptive ground. Following India's hoary traditions all manual and creative work and handicrafts in village and town economy have been performed by the more humble members of the community; people who are largely denied opportunities of culture, knowledge and enterprise by a rigorous quasi-religious social order.

India's people undoubtedly possess unquestioned gifts and skill as craftsmen, as well as mental acumen and intelligence of the highest order, but it still remains a comparatively rare phenomenon to find a combination of practical craftsmanship and high intelligence united in the one and the same personality. However, it seems certain that this state of affairs is in 1927 passing away, accelerated by the more effective measures now either in operation or on the point of establishment for the promotion and practice of technical and industrial education.

INDUSTRIAL AND TECHNICAL EDUCATION

So far, however, we have only touched on the harsher aspects of the picture. It can be said that during the long incubation period the technical education torch was never entirely extinguished. It flared up vigorously here and there. For example, a technological institute was established with Government financial aid and encouragement in Bombay in the early years of the twentieth century. In the year 1901 a Conference of the Directors of Public Instruction of the various provinces was held at Simla to consider the questions of the industrial education of the peoples of India. As a result of the deliberations, the Director of Public Instruction, Bengal, submitted a report

proposing that a school should be established for the purpose of giving instruction in up-to-date methods of hand weaving, as, next to agriculture, handloom weaving constituted the most important industry of rural Bengal. A special committee was then appointed to constitute enquiries into the economic conditions of the handloom industry, the causes of its decline and to suggest remedial measures. They were unanimous in their opinion that the industry still possessed great vitality and that it could be revived and fostered by the introduction of fly-shuttle looms and by instruction given on modern methods of weaving. Accordingly, Serampore was found as the most suitable centre in which operations could be commenced, and an Institute was opened there in 1908.

In 1906 the Association for the Advancement of Scientific and Industrial Education of Indians submitted proposals for the establishment of a similar institution to that in Bombay for Bengal. The subjects proposed for the new technological college were nine in number, namely, Mechanical Engineering, Electrical Engineering, Spinning and Weaving, Sheet Metal and Enamel Work, Industrial Chemistry, Dyeing and Paints, Ceramic, Silk, Mining and Metallurgy. This proposal was examined with the object of ascertaining how far it would trespass upon the future of the existing Civil Engineering College at Sibpur near Calcutta, which had hitherto been specifically devoted to the training of young men for posts in the Public Works Department of the province. The proposal did not proceed beyond the discussion stage.

At this time the Madras Provincial Government was anxious to promote industrial activities in its province, and the general line taken was that its policy should incline to the development and fostering of industries in the

first instance as precedent to the introduction of technical and industrial schools. The tendency in Bengal, on the other hand, had always been in the direction of applying Government policy to the promotion of technical education apart from the consideration as to whether actual industries were in existence or otherwise. This can be understood, inasmuch as Bengal has always been foremost amongst the provinces in India in regard to industrial enterprise. Its proximity to the coal fields and the availability of the jute monopoly as the basis of its great textile industry may be accepted as an adequate reason for this state of affairs. The line of policy advocated in Madras, however, did not commend itself to higher authority. It was indicated generally that any reasonable proposal for promoting technical education by itself would be encouraged, but any activity by Government agency in the direct promotion of actual industries was to be deprecated.

Again, so far back as the year 1900 it had been proposed in Bengal that an experienced technical education expert should be appointed to supervise industrial education. This proposal smouldered for some time. In 1910 an officer of that description was definitely appointed, in spite of discouraging criticism, and placed under the control of the Director of Public Instruction, the chief administrative officer of the general Educational Department of the Government. Generally he was to inspect such incipient technical schools and industrial classes as then existed. He was to keep himself in close touch with the industries of the province and to tour in the districts not less than 150 days in a year. Although the officer appointed was a man of considerable ability and experience of technical educational schools in England, which experience he appears to have applied in

an assiduous manner to the programme placed in front of him, little progress was achieved largely because this officer contracted malaria and had to be invalided home.

DEVELOPMENT

It was unfortunate that administration of Bengal at this period was in a state of flux. Three of its important divisions were transferred from its control and combined with the districts of Assam under a local government of its own. The creation of a new province afforded an excellent opportunity for reviewing the position in regard to industrial education and development, and little time was lost in assembling a representative conference in the year 1909 for this purpose.

A most exhaustive survey of the position resulted, and a report was presented embodying not less than 70 resolutions. The main substance of these resolutions, however, resolved into the advocacy for the establishment of a separate and new Department of Industries by the local Government whose main functions were to be

- (a) The scientific investigation of industrial problems,
- (b) The collection and supply of information,
- (c) The pioneering of new industries and of improved processes,
- (d) The better organisation of industries, and
- (e) The control of technical and industrial education.

The department was to be developed under the control of an officer as director, assisted by an Advisory Board of responsible officials and interested non-officials and local gentlemen. This proposal was adopted by the Eastern Bengal and Assam Government. Its main difficulty was that of providing the necessary funds. While the scheme received the blessing of both the Gov-

ernment of India and with some modification of the then Secretary of State, it suffered the misfortune that by the time approval was received, that is, in the year 1912, the separate Government of Eastern Bengal and Assam had been dissolved. The torch was thus handed back again to the provincial Government of Bengal.

While these considerations had been occupying the attention of the new province of Eastern Bengal and Assam, the question of technical education had not remained entirely moribund. At this time the difficulty in Bengal was the existence and development of the Civil Engineering College at Sibpur on the outskirts of Calcutta. Was it desirable to develop this college into a large polytechnic institution, embracing every possible technical subject, such as is included in the great Polytechnics of the West, the Manchester School of Technology, or the great German institution at Charlottenburg? If, again, development was to follow on these lines, should the polytechnic remain on the site at Sibpur, which till that time had been notoriously unhealthy, or should the location of the institution be moved to some central site in Calcutta where it would be in close contact with the numerous industries of the city and its suburbs, or should the bold step be taken of erecting the institution in a healthy situation far removed from Calcutta?

At this time a small night school was started in Calcutta for imparting technical education in mechanical and electrical subjects to the apprentices then employed in the various engineering workshops. This school was established largely through the enterprise of the staff of the East Indian Railway Company and of Messrs. Burn & Co., the latter being one of the largest local engineering concerns. If the polytechnic institution was to be developed

in Calcutta, then it would naturally absorb this evening school within its scope, and this course was agreed to by the Managing Committee of the night school. No decision was arrived at for some considerable time, and indeed it was not until some years later that the final decision was taken that the Civil Engineering College should remain at Sibpur, effective measures being taken to improve its drainage and water supply on the score of health, the college being confined to its main purpose, that is, to that of providing Civil Engineering and Mechanical and Electrical courses of a university standard. A corollary to this decision followed, that is, that the polytechnic institution should be an entirely separate concern.

IMPORTANT ISSUES

To all these discussions another issue of vital importance always lay in the background, whether this polytechnic institution was to remain under the control of the Education Department of Government, or whether its creation and development was to be handed over to a newly established Department of Industries entirely separate from the Education Department—it being understood that the Department of Industries would make it a cardinal feature of its policy to associate the industrial concerns of the province in establishing the polytechnic institution.

The next stage at which the importance of technical education was emphasised arose out of the considerations advanced by the Bengal District Administration Committee in the year 1913. In dealing with the economic condition of the people the Committees found that there was in existence a large educated class scattered through country villages, as well as in the few towns, who were all either rent receivers, salaried employees or professional men. Only a small portion of these

persons lived a life of productive activity while they were found to be acutely conscious of their industrial ineffectiveness. The Committee urged the desirability of adopting such remedial and beneficent measures as would afford some relief to the difficult economic situation then existing. They considered that the most promising line of policy was to help persons of this character to take a part in organised industries. The fact that many attempts at establishing national industries had been made in the troublous times that had followed the division of the province, showed that such developments were consonant with the ambitions of the educated youth of the country.

It was thought that many of these indigenous enterprises had been prevented from attaining economic success owing to a lack of technical knowledge and of the commercial experience necessary to such ventures. The Committee were of the opinion that these defects might be remedied if Government came out with a bold policy of helping the people to establish small organised industries demonstrating the possibilities of modern mechanical appliances, and indeed of stimulating the application to industrial and technical processes in every possible way, and to this end the Committee again advocated the setting up of a Department of Industries under a highly skilled experienced and competent director who had himself accumulated a comprehensive industrial experience, the department to be entirely free from the supervision of the Department of Education.

For this latter reason the Committee were not prepared to advocate the proposals for the Calcutta Technological Institute and the University School of Engineering at Dacca as they stood at that time. They desired to lift the whole question out of the hands of the

scholastic Department of Education and develop it in conditions more amenable to the commercial and industrial interests of the province. The Committee also expressed its conviction that the newly established Department of Industries should be co-ordinated with the existing Co-operative Credit and Agricultural Departments. At this point another experienced Government officer was deputed to make an enquiry into, and report on the industrial development of the province.

This officer also formed the opinion that the encouragement to industrial development by Government might take a more active form than had hitherto been the case, and he pressed for a forward policy in undertaking demonstration of possibilities of manufacture, ascertaining the cost of the same, the possibilities of markets and the margin of profit that might be obtained, and quoted from the successful experience of the then existing Department of Industries in Madras in this connection. The upshot of all these schemes, investigations and reports was that in May, 1915, the Government of Bengal decided to establish its own Department of Industries—an action which was ultimately sanctioned by the Government of India and which led to the establishment of the post of Director of Industries with a senior member of the Civil Service as the occupant in 1917.

At this time the prosecution of the war and the fact that India was the base of the extensive military operations in Mesopotamia, and elsewhere, had made it necessary for Government to take active measures in mobilising men, material and manufactured articles for war purposes. The post of Controller of Munitions as being responsible for these activities was combined with that of the Director of Industries, hence it happened that the

newly established department was entirely pre-occupied with munition production and war work down to the end of the year 1919. In 1920 the nucleus staff gradually took up the threads of the many schemes previously adumbrated and thus finally emerged as a new and entirely independent Department of Industries under an Indian Minister, as a transferred subject, following upon the reforms in Government administration in 1919.

EDUCATIONAL PROGRAMME

One of its first tasks was to lay down a comprehensive programme of technical and industrial education providing such facilities for a student at any stage in the general education line. For example, next to agriculture the largest and most widespread rural industry is that of weaving. By means of the peripatetic weaving schools, which have now been established to the number of 26, it is possible for an almost illiterate boy to obtain a short course of instruction extending over two months by means of which a small income can be made by plying the fly shuttle hand loom. No fee is charged for such instruction but, on the other hand, a small stipend is given to a limited number of students. Admittedly this only touches the fringe of the problem, but this is only the lowest rung of the technical education ladder.

Where a semi-literate boy can be maintained for a period of one year, he may obtain a more comprehensive training as an artisan weaver, in silk or cotton weaving and dyeing, at the various district weaving schools, the central Serampore Weaving Institute, or the Silk Weaving Institute at Berhampore. Again for boys who are semi-literate with some knowledge of English, artisan classes in woodwork and smithy work are available at small handicrafts or technical schools situ-

ated in ten of the principal district towns of the province. Scholarships or stipends are available to large numbers, and after a course of three years in these schools a boy, who has shown any application at all, is able to command a salary of Rs. 40 per month as a workman in the various water works, jute presses, and other small factories existing in the rural districts.

The department has also embarked upon a policy of extending the numbers of these technical schools and also of increasing the scope of the instruction given in the same in coöperation with District Boards and local bodies. The improved schools are called Junior Technical Schools. They include workshop courses in which the primary machine tools such as lathes, drilling machines, circular saws, planing machines, pneumatic smithy hammers, etc., are installed, and they contain sufficient equipment to familiarise boys up to 15 or 16 years of age, literate in English, in the elements of industrial machinery and processes, with the object of winning them into organised industry. It is realised that while such training will not make first-class fitter mechanics or machinists, such as are required for and are trained in large factories and the railway workshops, nevertheless, training of this kind will make it possible for the sons of local gentlemen, with some financial resources, to organise and embark upon a small scale industry such as a motor garage repairing workshop, rice mill, ice factory, etc.

A further opportunity available to boys of limited education with some knowledge of English is the training in surveying for posts as surveyors, usually known as Amins. This training is given at four of the technical schools, and for a very small fee sufficient instruction is given to enable a boy to obtain employment in the surveying

line under estate proprietors, municipalities, Revenue Department of Government and so on. A further and more comprehensive training enabling boys to pass an examination held by the Survey Education Advisory Board is given at the senior Survey School at Mainamati. The boys who successfully pass this course get employment as certificated surveyors under local bodies, Public Works Department, etc., on a salary from Rs. 50 to 150 per month. Arising out of this course opportunities are provided for eight students who have passed the Survey Board Final examination each year to proceed to the Bengal coal fields, where they are given a special training in mine surveying work.

ADVANCED INSTRUCTION

So far only the facilities available to boys with a less standard of education than the University Matriculation Standard has been considered. For those boys who have arrived at the matriculate stage a much larger field for technical and industrial instruction is available. In three of the district technical schools and also in the Dacca School of Engineering, a two-year course is given in elementary engineering subjects combined with simple workshop training in carpentry and smithy work, which enables such boys to find openings under the District Boards and other public local authorities, or even as contractors or sub-overseers, that is, the supervisors' posts necessary for carrying out road construction, water supply, drainage schemes, etc. Here again the salary available after such training is not less than Rs. 40 per month and may go much higher.

There is in addition at the Dacca School of Engineering, a further course of training up to the Overseer Standard of the Public Works Department. The

course occupies two years longer and with one year's practical training under the Public Works Department, or other satisfactory experience, admission to the Upper Subordinate Engineering Service of the Public Works Department is possible. The department also maintains courses of instruction in mining in the coal fields. A lecture hall has been built at Sitarampore, and a lecturer with academical qualifications and a first-class colliery manager's certificate is responsible for a three-year course of lectures covering the whole range of relevant technical subjects including Surveying, Principles of Coal Mining, Application of Mechanical and Electrical Engineering in Collieries, etc.

The students who finish the course and pass the examination at its conclusion satisfactorily, have possibilities for employment as colliery managers. When the present slump in the coal fields disappears, prospects of employment in this line will undoubtedly be good. A first-class School of Mines and Geology, aiming at the same standard as the Royal School of Mines in London, has been established by the Government of India in the centre of the coal fields in Dhanbad. The Bengal Government provide four scholarships, one of which is available at this School of Mines, to one of the students who passes the three-year course of lectureship under the mining instructor at Sitarampur.

TEXTILES AND TANNING

Serampore is traditionally identified with the textile industry in Bengal from the time of the Danish settlement. In this town, some 15 miles from Calcutta, the department is building up a Central Textile Institute equipped with modern textile weaving machinery, testing laboratories as well as facilities for instruction in dyeing and fancy

weaving with hand fly shuttle looms. Young men of the Matriculate Standard taking the higher three-year course of this Institute get the whole course free. For a number of students stipends sufficient for their maintenance are provided and there are large and developing possibilities of employment in the cotton mills, numbers of which in Bengal are increasing, or as teachers in the ever expanding schools of instruction or demonstrations now being given all over the province for the improvement of the hand loom weaving industry. As time goes on the increasing number of textile factories under Indian management in Bengal will intensify the demand for practically trained intelligent young men in the principles of the textile industry.

Another branch of training for which the new Department of Industries is entirely responsible is that provided in the Bengal Tanning Institute in the outskirts of Calcutta. Here Government maintain a small experimental tannery together with a fully equipped leather chemistry laboratory and a two-year course in the laboratory, and in all the operations of a practical tannery, from the fleshing of the raw hide to the finished leather, whether by the vegetable or chrome processes, is available. Here again scholarships or stipends are provided as an inducement to deserving students. Those who have applied themselves to this two-year course with industry have found service in existing tanneries or have been able to launch out and establish small tanneries or leather working factories of their own.

NEED FOR TECHNICAL TRAINING

Technical education first came into prominent public attention in regard to the needs of the mechanical engineering industry, and it was for this industry that the first efforts to establish an

evening technical school were made in Calcutta. The need for technical training to apprentices in large engineering workshops has been vocal for a number of years. Arising out of a developing opinion in this direction, the Government of Bengal appointed a representative committee to examine the position, and from the deliberations of this committee there has emerged the scheme for a Board of Control for Apprenticeship Training as well as the scheme which has ultimately resulted in the establishment of the large Technical School in Calcutta.

Under the Board of Control for Apprenticeship Training, the chairman of which is the Director of Industries, and whose members represent the large established mechanical and electrical industries, railway workshops, etc., an examination is held twice in every year which determines the number of young men who must have generally passed the Matriculation Standard in the general line, and who have the requisite qualifications for training as apprentices in various workshops. From the list of boys who have passed this admission examination, various workshops select their apprentices taken on each year.

Apprentices employed at the large locomotive and carriage workshops of the E. B. Railway, Kanchrapara, are given their technical training in a four-year course at the Kanchrapara Technical School, which has been built and staffed by the Industries Department of the Government of Bengal. Sixty-six young men are now being trained in the school, and all of them have the chance of employment under the railway subsequently. After their four-year course they are examined by the examiners appointed by the Board, who issue a certificate depending on the results of the same, while the best students have the chance of passing on to

the Bengal Engineering College, Sibpur, and there qualify for the full diploma in Mechanical and Electrical Engineering issued by that college. For apprentices employed in the various engineering workshops in Calcutta and its neighbourhood, similar opportunities of training are provided at the Calcutta Technical School erected by the Government of Bengal in the centre of the city on a suitable site and at a total cost of nearly £80,000.

The nucleus of a similar technical school has been started at Khargpur, the site of the railway workshops of the B. N. Railway, as also under slightly different conditions at the Ishapur Rifle and Metal and Steel Factories of the Government of India near Calcutta. A technical school of this kind is also in contemplation near Chittagong, where the works of the Carriage and Railway Works of the A. B. Rail-

way are situated. Students who pass the practical and technical courses under the Board of Control for Apprenticeship Training thus become eligible for the supervisors and higher grade posts in the railway services, as well as in the ordnance factories and other large engineering concerns situated in Bengal.

In conclusion it can be said that the policy being pursued by this new but important Government department is to set up model institutions both in the industrial and more rural centres, of the character most fitted to the local industrial needs and to involve and substantially encourage all unofficial effort, both by private or local civic bodies to emulate and develop the same. The prospect of real development on these lines is one of the most prominent features in the expansion and progress of the province.

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Origin and Growth of Journalism Among Indians

By RAMANANDA CHATTERJEE, M.A.

Editor, *Modern Review* and *Pravasi*, Calcutta

NEWSPAPERS in their modern sense began to be first published in India during the British period of Indian history. The first newspaper published in India was the *Bengal Gazette*, generally known as *Hickey's Gazette*, or *Journal*, from the name of its founder. It was first published in January, 1780. The first newspaper published in any Indian language was the *Samachar-Darpan* ("Mirror of News") in Bengali. Its first number was issued on May 23, 1818. The famous missionaries, Ward, Carey and Marshman, published it from Serampore, which was then a foreign, that is to say, non-British settlement. Regarding early Bengali newspapers, it is stated in the *Friend of India* for July, 1826:

The first in point of age is the *Sumachar Durpan*, published at the Serampore Press, of which the first number appeared on the 23rd May, 1818. . . . The next two papers are the *Sumbad Koumudi* and *Sumbad Chandrika*. . . . The youngest of the papers is the *Teemer Nausuck*—"The Destroyer of Darkness."

The *Sumbad Koumudi* was founded and edited by Raja Rammohun Roy. He also founded and edited a Persian newspaper, named *Mirat-ul-Akhbar*, or "Mirror of Intelligence." Another purely Indian newspaper, the *Bombay Samachar*, in Gujarati, was first published in 1822. Of all these early papers only the *Bombay Samachar* still exists. The circulation of all these papers was necessarily very small.

From the very beginning the press was looked upon with disfavour by the British authorities. Editors were dis-

couraged and persecuted, and their activities were seriously restricted. Those in power could not brook any criticism. Editors were sometimes punished for the publication of even harmless news. From the year 1791 to the year 1799, several editors were deported to Europe without trial, whilst many more were censured and had to tender abject apologies. It is not necessary to follow in detail chronologically all the regulations and laws affecting the press in those early days. But as specimens of such legislation, the following passed by the Bengal Government in 1799 may be quoted:

No paper to be published at all until it shall have been previously inspected by the Secretary to the Government or by a person authorized by him for that purpose.

The penalty for offending against any one of the above regulations to be immediate embarkation for Europe.

How the press was looked upon by the authorities in those days will appear from the following extract from the Bengal Government's scheme for the publication of a newspaper at its own expense:

The increase of private printing presses in India, unlicensed, however controlled, is an evil of the first magnitude in its consequences. Of this sufficient proof is to be found in their scandalous outrages from the year 1793 to 1798. Useless to literature and the public, and dubiously profitable to the speculators, they serve only to maintain in needy indolence a few European adventurers who are found unfit to engage in any creditable method of subsistence.

The Marquess of Hastings did not like to place great restrictions on the

liberty of the press and abolished press censorship during the latter part of his administration. The rules promulgated by him were less stringent than those which had been in force previously. They were as follows:

The editors of newspapers are prohibited from publishing any matter coming under the following heads:

1. Animadversions on the measures and proceedings of the Hon'ble Court of Directors or other public authorities in England, connected with the Government of India, or disquisitions on political transactions of the local administration, or offensive remarks levelled at the public conduct of the members of the council, of the judges of the Supreme Court, or the Lord Bishop of Calcutta.

2. Discussions having a tendency to create alarm or suspicion among the native population of any intended interference with their religion or observances.

3. The republication from English or other newspapers of passages coming under any of the above heads or otherwise calculated to affect the British power or reputation in India.

4. Private scandal and personal remarks on individuals tending to excite discussion in society.

Immediately after the abolition of press censorship, James Silk Buckingham, editor of the *Calcutta Journal*, incurred the displeasure of the authorities. Lord Hastings did not want to take any extreme step against him. But his successor, Adam, a civilian who officiated as Governor-General for some time, ordered him to leave the country. Soon afterwards, on March 14, 1823, a Rule and Ordinance was passed, curtailing the liberty of the press. According to an Act of the British Parliament, 13 Geo. III, Cap. 63, every regulation made by the Governor-General of India then required to be sanctioned and registered by the Supreme Court before it passed into law—a provision subsequently repealed. Believing that

a free press is one of the best safeguards of liberty, Raja Rammohun Roy petitioned the Supreme Court against the press ordinance; and, when that proved unavailing, he appealed to the King in Council, which also proved fruitless. In the opinion of Miss Sophia Dobson Collett, one of the Raja's biographers, the memorial to the Supreme Court

may be regarded as the Areopagitica of Indian history. Alike in diction and in argument, it forms a noble landmark in the progress of English Culture in the East.

The same writer observes that

the appeal is one of the noblest pieces of English to which Rammohun put his hand. Its stately periods and not less stately thought recall the eloquence of the great orators of a century ago. In a language and style forever associated with the glorious vindication of liberty, it invokes against the arbitrary exercise of British power the principles and traditions which are distinctive of British history.

It should be stated here that Lord Hastings encouraged journalism in India by allowing the *Samachar-Darpan*, published by the Serampore missionaries, to be carried by the post office at one-fourth the usual rates of postage.

Up to the year 1835 the press was confined mostly to the Presidency towns. Subsequently it spread to other cities also. During the Mutiny Lord Canning passed the Gagging Act to curb the license of a few papers and to prevent the publication of news which might be prejudicial to public interests. It was in force for only one year.

In the year 1858 there were 10 Anglo-Indian papers and 25 Indian papers. It is stated in the *Asiatic Journal* for August, 1826, that "the number of newspapers published in the languages of India, and designed solely for native readers, has increased, in the course of

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seven years, from one to six. Four of these are in Bengali and two in Persian." These facts give us some idea of the progress of journalism from 1819 to 1858.

During 1918 the following newspapers and periodicals were published: in Madras, 254; Bombay, 140; Bengal, 353; United Provinces, 359; Punjab, 264; Burma, 35; Bihar and Orissa, 59; Central Provinces and Berar, 29; Delhi, 28; total, 1,521. The figures for the year 1924-25 were as follows: Madras, 597; Bombay, 816; Bengal, 632; United Provinces, 580; Punjab, 390; Burma, 139; Bihar and Orissa, 117; Central Provinces and Berar, 68; Assam, 35; Delhi, 75; total 3,449. These figures show that in the course of about seven years the number of journals had more than doubled, partly owing, it is believed, to the repeal of some penal and restrictive press laws in 1922. No information is available as to how many of them were Anglo-Indian and how many Indian. But by far the largest part of the press in India is Indian, numbering over 650 newspapers in 1927 (excluding periodicals).

Some idea of the restrictive press legislation before and during the Mutiny has been given above. The present Press and Registration of Books Act was passed in 1867. The Vernacular Press Act, which did not affect papers conducted in English, was passed by the Viceroy Lord Lytton in 1878. It is believed that its chief object was to kill or cripple the *Amrita Bazar Patrika*, which was then a Bengali weekly. But that object was frustrated by the conductors of the paper bringing it out in English from the very next week after the passing of that Act. It was repealed in 1882 during the viceroyalty of Lord Ripon. From that date till 1907 there was no direct press legislation. But what is called "sedition" has been sought to be eradicated

by the passing in 1898 of section 124A of the Indian Penal Code in its present form and by the introduction into the Penal Code of section 153A and into the Criminal Procedure Code of section 108. For dealing with papers inciting to political murder or to other acts of violence, the Government passed the Newspaper (Incitement to Offences) Act in 1908.

THE PRESS ACT OF 1910

The Indian Press Act was passed in 1910. As to this Act the Indian year-book of 1927 states:

The Act deals, not only with incitements to murder and acts of violence, but also with other specified classes of published matter, including any words or signs tending to seduce soldiers or sailors from their allegiance or duty, to bring into hatred or contempt the British Government, any Native Prince, or any section of His Majesty's subjects in India, or to intimidate public servants or public individuals.

The different sections of the Act have in view (I) control over presses and means of publication; (II) control over publishers of newspapers; (III) control over the importation into British India and the transmission by the post of objectionable matter; (IV) the suppression of seditious or objectionable newspapers, books, or other documents wherever found.

By the autumn of 1917 the Government of India had begun to consider the desirability of modifying at least one section of the Press Act to which great exception had been taken on account of the wide powers that it gave. Finally, after more than once consulting Local Governments, a Committee was appointed in February, 1921, after a debate in the Legislative Assembly, to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and report what modifications were required in the existing law. That Committee made an unanimous report in July, 1921, recommending:

- (1) The Press Act should be repealed.
- (2) The Newspapers Incitements to Offences Act should be repealed.

(3) The Press and Registration of Books Act and the Post Office Act should be amended where necessary to meet the conclusions noted below: (a) the name of the editor should be inscribed on every issue of a newspaper and the editor should be subject to the same liabilities as the printer and publisher, as regards criminal and civil responsibilities; (b) any person registering under the Press and Registration of Books Act should be a major as defined by the Indian Majority Act; (c) local Governments should retain the power of confiscating openly seditious leaflets, subject to the owner of the press or any other person aggrieved being able to protest before a court and challenge the seizure of such documents, in which case the local Government ordering the confiscation should be called upon to prove the seditious character of the documents. (d) The powers conferred by sections 13 to 15 of the Press Act should be retained, Customs and Postal officers being empowered to seize seditious literature within the meaning of section 124A of the Indian Penal Code subject to review on the part of the local Government and challenge by any persons interested in the courts; (e) any person challenging the orders of Government should do so in the local High Court; (f) the term of imprisonment prescribed in sections 12, 13, 14 and 15 of the Press and Registration of Books Act should be reduced to six months; (g) the provisions of section 16 of the Press Act should be reproduced in the Press and Registration of Books Act.

Effect was given to these recommendations during the year 1922.

In 1927 an Act was passed making it a specific offense to intentionally insult or attempt to insult the religion or to outrage or attempt to outrage the religious feelings of any class of Emperor George V's subjects in India.

THE ETHICS OF JOURNALISM

It is only in recent years that some Indian journals have been started

mainly as business enterprises. Formerly Indian newspapers for the most used to be conducted mainly with the object of serving the country. I do not mean to suggest that no journal conducted for pecuniary gain can do good to the country, though in starting and running newspapers the sole or chief object should not be money. It is true, newspapers cannot be conducted without money; but sufficient money can be earned for running a journal without sacrificing moral principles and public good. The average young Indian journalist who works for money takes to the profession with a high object. His achievement can, however, only be commensurate with his character, attainments, capacity and industry.

Ours is a very difficult task. I shall point out the difficulties with reference to Indian conditions. We have to serve and please many masters. The staff of those journals which are owned by capitalists have to serve them. They may not in all cases have to do their bidding directly, but there is indirect, perhaps unconscious, pressure on their minds. But even in the case of those journalists who are proprietors of their own papers, there are other masters to serve and please. There is the circle of readers, drawn from all or some political, social, religious (orthodox or reforming), or communal sections. There are the advertisers. And last of all, one must not offend the ruling bureaucracy beyond a certain more or less unknown and unknowable point. Having to serve so many masters, we may seek to be excused for not listening, above all, to the voice of the Master within, speaking through our conscience. But there can be no excuse. Ours is a sacred duty. We must not sacrifice our convictions for any advantage whatsoever. Great is the temptation to play to the gallery;

but our task is to mould and guide as well as to give publicity to public opinion.

An endowed newspaper may probably be placed beyond some of the direct and indirect influences spoken of above. But these influences are not always harmful. However, the experiment of an endowed newspaper is worth trying. Though not exactly endowed, the *Freeman* of America was conducted for some years successfully under a guarantee of its deficits being paid by a public-spirited lady.

INDIAN JOURNALISM TODAY

It is obvious that the spread of literacy and education has greatly to do with the progress of journalism and journalistic success. Political freedom and economic prosperity are other factors in such progress and success. Religious and social freedom also are indispensable for progress in journalism. Indians are for the most part illiterate, only 82 per thousand persons, aged 5 and over, being literate. India is also a dependent country subject to stringent and elastic laws of sedition, etc. Our religious and social superstitions are another obstacle. And, last of all, India is a very poor country. No wonder, then, that we possess only a small number of journals compared with other peoples who are more educated, more prosperous and politically and socially free. The following table will give some idea of the position we occupy in the field of journalism. The figures are taken from the Statesman's Year-Book for 1927:

The table shows that in proportion to her population India possesses a much smaller number of newspapers and periodicals than the countries named above, which are all politically free and more educated and prosperous. But the mere number of India's journals perhaps gives an exaggerated

Country	Population	Number of Journals
India.....	318,942,480	3,449
Canada.....	8,788,483	1,554
United States of America.....	115,378,000	20,681
Japan.....	61,081,954	4,592
Chile.....	3,963,462	627

idea of her progress in this respect. For, whereas in United States of America, Japan, etc., many newspapers and periodicals have sales exceeding a million each, no journal in India has a circulation of even 50,000, most papers having a circulation of only a few hundred or a thousand.

Though India has a large population, the multiplicity of languages spoken there, added to the prevailing illiteracy, stands in the way of any vernacular journal having a very large circulation. Of all vernaculars Hindi is spoken by the largest number of persons, namely, about 99 millions. But unfortunately all the Hindi-speaking regions in India are among the most illiterate in the country. Moreover, as the speakers of Hindi live in four or five different provinces, and, as owing to distance and other causes, papers published in one province do not circulate largely in others, Hindi papers cannot under present circumstances have a large circulation. About 50 millions of people speak Bengali. Most of them live in Bengal. But owing to most of them being illiterate, Bengali journals also cannot have a large circulation. Each of the other vernaculars is spoken by less than 25 millions, and several by only a few hundred thousands. Some papers conducted in English, particularly those owned and edited by Britishers, circulate in more than one province. The British-owned and British-edited

papers are more prosperous than Indian ones; because the British sojourners here are well-to-do and can all buy papers, and the adults among them are all literate. Another reason is that, as India's commerce, trade, manufacturing industries and transport are mostly in their hands, their papers get plenty of advertisements. Our journals cannot prosper and multiply in number unless all our adults are able to read, and unless the commerce, manufacturing industries and transport of our country come into our hands.

Besides illiteracy and other causes, our postage rates stand in the way of the circulation of our papers. In Japan postcards cost four and a half pies, in India six pies. In Japan the lowest postage rate for newspapers is half sen, or one and a half pie; here it is three pies. There are differences in other items, too, all to the advantage of Japan. For this and other reasons, though Japan has a much smaller population than India, the number of letters, postcards, newspapers, parcels and packets dealt with by the Indian Post Office is smaller than the volume of ordinary (as apart from the foreign) mail matters handled by the Japanese Post Office, as the following table shows:

Country	Population	Mail Matters	Year
India...	318,942,480	1,244,425,235	1924-25
Japan..	61,081,954	3,806,120,000	1920-21

The invention of typewriting machines has greatly facilitated the speedy preparation of quite legible "copy" for the press. But so far as the Vernaculars of India are concerned, the invention has not benefited their writers much. For many of these vernaculars have different kinds of characters and

alphabets, for all of which typewriters have not been invented. And the machines constructed for some of the vernaculars are not at all as satisfactory and as convenient to use as those constructed for Roman characters. A great difficulty is the existence in Sanskrit alphabets of numerous compound consonantal letters and the different forms which the vowels assume when connected with consonants. "X" is the only compound consonantal letter in English. In the Sanskrit alphabets they are quite numerous.

A far greater handicap than the absence of satisfactory typewriting machines for our vernaculars is the non-existence of type-casting and setting machines like the linotype, the monotype, etc., for our vernaculars. Unless there be such machines for the vernaculars, daily newspapers in them can never promptly supply the reading public with news and comments thereupon, as fresh and full as newspapers conducted in English. The vernacular dailies labour also under the disadvantage that they receive all their inland and foreign telegraphic messages in English, which they have to translate before passing them on to the printer's department, which dailies conducted in English have not got to do. Reporting in the vernaculars has not made as much progress as in English, which latter even is here in a backward condition. This fact often necessitates the translation of English reports into the vernacular. I am dwelling on these points, because journals conducted in English can never appease the news-hunger, views-hunger and knowledge-hunger of the vast population of India. Of the 22,623,651 literate persons in India, only 2,527,350 are literate in English. When there is universal and free compulsory education throughout India

this difference between the number of literates in the vernacular and that of literates in English will most probably increase instead of decreasing. Therefore, for the greatest development of journalism in India, we must depend on its development through the medium of the vernaculars.

Madras has earned for itself the credit of establishing an institution for imparting education in journalism. Fully equipped institutions for giving such training should be established at all University centres. As reporting has necessarily to be taught at all such schools, special attention should be paid to reporting in the vernaculars.

Progress in journalism depends to a great extent on the supply of cheap paper, ink, etc. Raw materials for their manufacture exist in India in abundance. If we could supply our own paper, ink, etc., that would be a great step forward. The manufacture of our own printing machinery would also be a great help. Though that is not a problem whose solution can be looked for in the immediate future, we note with hope that the mineral resources of India are quite sufficient for all such purposes.

Photographic materials and everything else needed for equipping process engraving departments are also required for big newspaper establishments. How far India can ever be self-supplying in this respect can be stated only by specialists.

THE PROBLEM OF FOREIGN NEWS

One of the disadvantages of Indian journalism is that the supply of foreign news is practically entirely in the hands of foreigners. Reuter gives us much news which we do not want, and does not give us much that we want. Moreover, what is given reaches us after manipulation in British interests. "The

Free Press of India" has recently rendered good service in arranging for news being sent quickly from London in relation to the Simon Commission. Permanent arrangements for such independent supply of foreign news would remove a much-felt want, though the disadvantage of cables and ether waves being controlled by non-Indians would still remain. Some of our dailies have correspondents in London. There should be such correspondents in the capitals of other powerful and progressive foreign countries.

Indian dailies in many provinces already have correspondents in other provinces. In addition to correspondents in all the principal provinces, who ought to pay greater attention to their cultural movements and events and vernacular journals than they do, it would perhaps be very desirable for the most flourishing dailies to have, among their editorial assistants, competent young men from different provinces, who could pay attention to things appearing in their vernacular newspapers also. The German mode of apprenticeship known as *Wanderjahre*, or wander-year, that is, the time spent in travel by artisans, students, etc., as a mode of apprenticeship, may be adopted by our young journalists also. Of course, they could do so with advantage only if our dailies in the different provinces would, by mutual arrangement, agree to allow such persons to serve in their editorial offices for fixed periods. Such all-India experience would stimulate our love of India as a whole, broaden our outlook, and cure us of our provincial narrownesses and angularities to a considerable extent.

WAYS TOWARD PROGRESS

It would be desirable to have an All-India Journalist's Association and

Institute with branches in Provincial centres. These should be registered under Act XXI of 1860. The Association may have a monthly journal, and draw up a code of ethics and etiquette for journals. Without such Associations, and solidarity and mutual co-operation, we cannot aspire to acquire and exercise the influence belonging rightfully to the Fourth Estate. There should be libraries connected with such Associations or with the schools of journalism referred to above. In these libraries, in addition to books, reports, etc., required by the profession, complete files of all important journals should be kept. It may be difficult, if not impossible, now to procure files of all such papers from the beginning;

but an earnest attempt ought to be made.

There should be Journalists' Defence Funds in all provinces, in order that no deserving journalist may go undefended for want of means when prosecuted for sedition and similar technical offences. A Journalists' Benevolent Fund may also be created for helping the families of deceased journalists under stated conditions.

So far as I am aware, there is no complete and connected history of journalism in any province of India, though fragmentary notes and articles have been written. When such provincial histories have been published, it would be easy to write a complete History of Indian Journalism.

Origin and Growth of Journalism Among Europeans

By A. H. WATSON

Editor, Statesman, Calcutta; formerly Editor of *Westminster Gazette* and *Weekly Westminster*

HOWEVER true it may be that the Englishman wherever he goes in the world seeks out a site for a golf course, his passion for starting a newspaper has endured longer and is as strong now as ever it was. Hence the very active developments of journalism in a town like Karachi, the newest of the big Indian ports. The story of British journalism in India traces back almost as far as that of regular government by the British, although it naturally does not extend to the unsettled days of the early traders. Within seven years of the Regulating Act of 1773, which created a Governor-General and set up a Supreme Court, the first British newspaper was published in Calcutta and by 1790 Bombay boasted two newspapers in the *Herald* and the *Courier*, the latter of which was to be merged at a much later date in the *Times of India*.

In the conditions of India in those early days the newspapers were naturally born to trouble. The rule of the East India Company was autocratic; its officers did not welcome criticism; they had large powers in deciding who should enter the settlements and how long their stay should be. Journals in those circumstances were either official, safe and dull, or were written with an eye to the scandals of the community, in which case their life was apt to be short. *Hicky's Gazette or Journal*, the first of Calcutta's newspapers, was so scandalous in dealing with the life of the community that it and its proprietor disappeared within two years. It had successors which were equally short-lived, for the most part because they were dull.

The producers of these early organs of opinions faced many difficulties. Mails bringing news from home were uncertain and far between. A sailing ship might take anything up to thirteen months to reach Calcutta from England, and there was no organisation of a news service. The journalist was thrown back for his material in the main upon the life of a very small community and had to battle with every discouragement from the supreme authority, who objected to practically all news affecting its servants. Editors were deported for trivial offences against the regulations or were made to apologise publicly. Stringent rules were set up for the control of the Press, which was subjected to strict censorship. Everything that was to be printed had first to receive official sanction, and it was not until 1818, under the governorship of the Marquis of Hastings, that there was any relaxation of this stern and unenlightened code. Nevertheless, from this period one newspaper survives to the present day. The *Bengal Gazette*, started in 1780 under Government patronage, is the *Calcutta Gazette* of today, a purely official publication recording the proceedings of the Bengal Government.

THE BEGINNINGS

To this period of beginnings belongs the story of James Silk Buckingham, who after a youth of wandering established the *Calcutta Journal* in 1818. This was the most successful of all the newspapers, but its vigorous criticism of the East India Company brought down wrath upon the head of the pro-

prietor. He was expelled from India, and his journal suppressed. But he had friends at home. The proceedings against him were made the subject of Parliamentary debate, and as a result the East India Company was driven to give him a pension of £200 a year. In England he started the *Oriental Herald* and the *Athenæum*, destined to great distinction under his successors. He sat in Parliament for five years, and was subsequently awarded a second pension from the Civil List of £200 a year. It has been worth while to dwell upon his story, for what he was made to suffer and the public attention which his case evoked were powerful factors in smoothing the way of his successors in journalism in India.

Incidentally Buckingham's paper gave rise to a newspaper which survives today as one of the two European dailies of Calcutta. Disturbed by the radicalism of Buckingham a syndicate of British merchants started, in 1821, *John Bull in the East*, avowedly to support the régime as it was and to inculcate the most rigid of Tory principles. Its columns were as dull as those of Buckingham were lively, but under Stocqueler, who changed its name to the *Englishman*, it became the most powerful organ in India and for long its supremacy was unchallenged.

In the early history of the Press in India the missionaries played a distinguished part. Many of the publications of today can trace their history back to the productions of the missionary presses, which were mainly in the vernacular. Ward, Carey and Marshman are conspicuous names in this connection. Working at Serampore under the encouragement of the Marquis of Hastings they issued papers in the Bengali language. From the same source came the *Friend of India* which after many vicissitudes, appearing sometimes as a monthly, sometimes as

a weekly and finally as a quarterly, had its identity merged in the *Statesman* of Calcutta, the outstanding paper, in point of circulation and revenue, of India. Another clergyman, Dr. George Buist, was later to give a distinctive note of literary culture and vigorous writing to the Bombay newspaper. The debt of the Press in India to the Church is heavy.

The years between 1818 and 1857, when the Mutiny temporarily interrupted most of the peaceful activities of the country, saw a considerable development of the Press. Following in the footsteps of the Marquis of Hastings, Lord Amherst and Lord William Bentinck allowed a large liberty to writers. While many of the penal enactments remained on the Statute Book they were not enforced, and in 1835 Bentinck made a clean sweep of most of the restrictions that still nominally existed. As a result the Press, hitherto confined to the Presidency towns of Bombay, Calcutta and Madras, developed in Gwalior, Delhi and Agra. But it would be wrong to conceive of the newspapers of this date as having any large circulations. Their influence arose mainly from the fact that they were read by and appealed to the very small governing and mercantile community. It was through these that they exercised a very real power upon the governments of the day, servants of which were frequently the principal contributors. By the time of the Mutiny there were nineteen Anglo-Indian newspapers, and rather more produced in the vernaculars.

FREEDOM GAINED

By the time of the Mutiny the Press had not only gained a large measure of freedom—it was conscious of the fact. Certain papers criticised the Government with a very considerable daring and were in almost perpetual opposi-

tion. Among the able journalists of those days, the outstanding figure was Robert Knight, who was destined to leave a conspicuous stamp upon Indian journalism. He had held a prominent place in the Government service; but when he took up his pen in Bombay, it was as a champion of the rights and liberties of the Indian. Under him the *Bombay Times* was transformed into the *Times of India*. Frequently under the displeasure of Government he stuck sternly to his guns and was foremost in advocating clemency after the Mutiny, at a time when to do so, as Canning found, was to incur the censure and dislike of most of the British community. Knight had his reward in a splendid presentation from the Indian community, but he was compelled eventually to transfer his activities from Bombay to Calcutta. There he purchased the goodwill of the *Friend of India* and issued a daily paper as *The Indian Statesman* after an earlier venture with the *Indian Economist*.

Robert Knight was a man of conspicuous ability, a trained economist with genuine sympathy with native aspirations that made him something of an Ishmael among the official class. But he conducted his paper with conspicuous ability against heavy odds. The *Englishman* was more than a formidable rival; it practically held the field. After the Mutiny it had been acquired by Mr. J. O'B. Saunders, who ran it with ability as an organ that supported British rule through thick and thin. His successors were not so enterprising, and the opportunity of the *Statesman* came when that property passed, by the death of Robert Knight, under the control of his sons, Paul and Robert Knight, who modernised the paper, introduced the first rotary presses into India, utilised the railways for distribution, and by publishing at one anna, when their principal rival was

still four annas, gave a new meaning to circulation in India. If today the chief newspapers of India can rival those of any part of the Empire in their appearance and in the modernity of their style, while the Indian Press has arrived at new conceptions of what a newspaper should be, the credit is very largely due to the two brothers who have now retired with a large fortune from the field of their success.

The seventies were a great formative era in the progress of the Indian Press. With Robert Knight beginning his work in Calcutta two newspapers destined to distinction were born in northern India. The *Civil and Military Gazette*, started as a weekly in Simlai, presently transferred itself to Lahore and began to appear as a daily. The *Pioneer* was floated at Allahabad and quickly established a position that it was to hold for many years as the most authoritative of Indian journals. Famous men such as Sir Henry Walker, who made a great fortune in Simla, and Sir George Chesney, the author of *The Battle of Dorking* were associated with its fortunes, but its distinctive position was given it by Mr. Howard Hensman, who, as correspondent with the Government of India, conferred upon his paper a semi-official character and made of it a hunting ground for official news. By this time the Press was beginning really to feel its freedom and to avail itself of its opportunities, improving its news services and enlisting distinguished men as its writers. James Maclean, who was responsible for the *Bombay Gazette*, after a brilliant career in India filled a considerable position in Parliament at Home. A young man, Rudyard Kipling, was laying the foundations of world fame in the service of the *Civil and Military Gazette* under the editorship of Kay Robinson, himself destined to a distinguished career as a writer in England. The newspapers

began to take a wider range and at times to become daringly critical of the Government, which had for so long held them in repression.

All this was a natural outgrowth of the new political situation in India inaugurated after the Mutiny. An understanding of the bigger influences at work is necessary to full comprehension of the new position which the Press had come to occupy. The policy of Government was frankly the association of Indians with most branches of the Administration, and a gradual movement towards the time when self-government would be possible. This more democratic spirit involved a free public criticism of the whole scheme of Government, and an increasing susceptibility on the part of Government itself to the popular view of its acts. Side by side with this the rapidly increasing range of education was creating in India a reading public eager for information, while the growth of railway facilities gave range to the distribution of news and opinions. While repressive laws were on the Code, they remained dormant, and in no country in the world did the Press enjoy a more complete freedom in actual fact than in India.

Some surprise may be felt that a Government situated as the Government of India was in times still recent, enjoying practically autocratic sway, and holding in its own hands every string of the administration of the country, has never embarked on journals officially inspired by itself. An explanation may be sought in the traditional character of the Indian Government which for a long period was autocratic and had no need for publicity. It governed; it did not explain its acts; it had no reason to persuade an electorate to its point of view, for an electorate did not exist. All that has altered. An electorate has been brought into being; the affairs of the

Government are publicly debated in Assembly and Councils; practically every act is challenged, while there has grown up a numerous vernacular and Indian-owned Press which for the most part is in opposition to the ruling powers. The case against the Government is stated daily by hundreds of journalists who lack neither ability nor powers of denunciation; that of the Government itself is never officially expounded except in the various Councils. Nor has any endeavour been made to counter this disadvantage; and the time for such an endeavour has probably passed with the rise in the power and influence of the English-owned newspapers. But this position has wrought a subtle change in the general attitude of these newspapers. Although they remain independent and are at times strong critics of individual acts of the Government, in general they are to be found supporting official acts and legislation. There is no longer the sharp division of newspapers in perpetual opposition and in perpetual support of the Administration. The function of criticism has passed to the native-owned Press, that of defence has become the province of the English-owned newspapers. Several of them maintain correspondents with the Government of India who gather news as their primary function, but are inevitably thrown into close contact with officialdom and are in a position to explain what lies behind the acts of Government. British journalists have, too, in several cases entered the legislatures as members and in that capacity take a prominent part in public affairs.

THE PRESS TODAY

The influence of this British-owned Press in India is enormous and is not to be measured by circulations which seem small when compared with those

obtained in Western countries. The educated classes in India who read are themselves small in numbers, but they dominate the opinion of millions. A typical Indian village scene is the reading and translation of the newspaper in the open air to groups of those interested. The opinion of a whole village may be swayed by a single copy of an article. As education spreads circulations are rising, and it may be doubted whether there is any country in the world in which public opinion is more directly dependent upon the Press than it is in India today, nor any in which Government is so obviously influenced in its acts by Press criticism. The late Mr. Samuel Montagu—the principal author of the Montagu-Chelmsford Reforms scheme which has gone so far to democratise the form of government in India—said in private conversation after his experience in India that were he a young man he would like to control a newspaper in India and through it dictate to the Viceroy and the permanent services their policy of rule. While no newspaper reaches that position of authority, the anecdote is illustrative of the impression formed by an acute observer of the power and influence that the Press can wield in the peculiar conditions in India today.

In this new phase of its development the European-owned Press in India has been able to avail itself of the most modern machinery, and there are newspaper offices as completely equipped as those to be found in any city in the world. Rotary presses and linotype machines were introduced into Calcutta over twenty years ago, and other places quickly followed the lead. Today India has not only illustrated dailies, but fine weekly newspapers, that record by pictures and letter-press the kaleidoscopic life of what is practically a continent. The organisation of news services has been undertaken on

Western lines and in Mr. K. C. Roy, a Bengali Brahmin, India has produced at least one great news collector whose work, although he has never occupied an editorial chair, has been vastly formative both as regards the European and the Indian Press. Able journalists are attracted in increasing numbers to service in India, and the staffs of the large and richer papers compare in academic distinction, in journalistic experience and in ripe knowledge of public affairs with those of the best papers at home. An outstanding figure of recent years has been Sir Stanley Reed, who, when conducting the *Times of India* during the war, offered his services to the Government and did notable work in propaganda.

Although the war tended to reduce the number of the English periodicals in India—and there has been no development since that has fully replaced those which ceased publication—the number of English-owned newspapers remains fairly constant. Naturally the principal of these are in the centres with a considerable European population—in Calcutta, Bombay, Madras, Allahabad, Lahore, Karachi and Rangoon. Delhi, the new capital, as yet boasts no English-owned newspaper, but it is inconceivable that that field will be long neglected in spite of the possession of a climate that is almost intolerable to Europeans for something like half the year.

Delhi is destined to great developments and though it may not be probable that the annual flight of Government to the hills will cease for long to come, the British population there throughout the year is bound to increase and will require an organ putting it more immediately in touch with affairs than it can be with the newspapers that come from some distance away. The promise is that the European-directed newspapers will increase

throughout the country and that their power will become greater in the new conditions. India with immense travail is passing under forms of self-government that are unfamiliar to her people and in many ways repugnant to nations—for they are no less—that have been habituated to personal rule for countless centuries. She wants guidance in the new forms and in the fresh approach to every kind of public question to which she is called. Circumstances have decreed that the main burden of that education must fall

upon the newspapers controlled and directed by those familiar with Western ways of government, since there is no other machinery that can supply the want. While the newspaper is primarily an instrument for the distribution of news, it retains in India to the full its character as a mould of public opinion. Views are read and accepted with faith. The mission of the European-directed Press, in the newer conditions, is to help in a transition that will be full of difficulties and will call for infinite patience.

Hindu-Moslem Unity

By VICTOR ALEXANDER GEORGE ROBERT LYTTON, P.C., G.C.S.I., G.C.I.E.

Governor of Bengal, 1922-27; Acting Governor-General of India, 1925; Under-Secretary of State for India, 1920-22; Representative of India in the League of Nations

OF the many difficulties which surround the problem of Government in India, not the least is that of the relations between Hindus and Muhammadans—the two great communities of which the Indian people is mainly composed. If the population were either entirely Muhammadan or entirely Hindu, the problem of Government would be immensely simplified and means might be found without much difficulty of adjusting the interests—in so far as they are distinct—of the different Provinces or races of which India is composed. As it is, the Hindu-Moslem problem is to be found in almost every Province, and it accentuates every other cause of disunion. It is worth while, therefore, in any study of Indian conditions to consider how far community differences are reconcilable and what are the prospects of forming a nationhood strong enough to supersede them.

SOME FACTS

The main facts of the problem must first be stated. Neither of the two communities are actually indigenous in the country, as both the Hindus and the Muhammadans originally came as conquerors from without; yet both have been settled in the country long enough to be regarded as its native population. Though both are to be found all over the Peninsula, they are not distributed in equal numbers. In the whole of British India the Hindu population outnumbers the Muhammadan by roughly three to one—the actual numbers being Hindus 216,734,586 and Muhammadans 68,735,233.

The Hindus preponderate in the south, the Muhammadans in the north. Of the 9 Provinces of British India, the Hindus are in a majority in 6, and the Muhammadans in 3, namely:

	Hindus	Moslems
Madras.....	88.64	6.71
Bombay.....	76.58	19.74
United Provinces.....	85.09	14.28
Behar and Orissa.....	82.84	10.85
Central Provinces.....	83.54	4.05
Assam.....	54.34	28.96
Bengal.....	43.27	53.99
Punjab.....	31.80	55.33
Northwest Frontier Province.....	6.66	91.62

Mere numbers, therefore, suggest that the Hindu community is the more important section of the Indian population, and this suggestion is intensified by the fact that the standard of education is higher among the Hindus than among the Muhammadans. This is partly due to the character of the two populations and partly to the fact that when English became the medium of instruction and examination in the schools, the Muhammadans refused to abandon Persian which had been the language of their Court and literature since the days of the Muhammadan conquest, and their boys, whose knowledge of English was defective, fell behind the Hindus in all scholastic competitions. In Bengal 90 per cent of the Muhammadan population are cultivators who have no education at all, and the Moslem with high academic qualifications is a recent product and

hard to find, even in a Province where the Moslems provide 54 per cent of the population. The important consideration, however, is that the home of the Muhammadan religion is among the virile and warlike races of Northern India and in the hill fastnesses of the Northwest frontier and Afghanistan beyond. In the hypothetical trial of strength which the two communities have ever in mind, the Hindu relies upon his numbers and his superior intellect and the Moslem upon his virility and fighting qualities. Each is confident of his ability to hold his own in any war for supremacy. Under a bureaucratic system of Government, dominated by British officials, opportunities of conflict between the two communities were comparatively rare and the conception of a common citizenship in the State established under British rule has enabled both Hindus and Moslems to obtain administrative experience and to unite in joint political organisations.

During the last twenty years, however, when Democracy became the ideal of Indian politicians, and especially during the last five years when that ideal has come nearer to realisation, the rivalry between the two communities has become more acute and occasions of conflict more numerous. Indian politicians who are fully conscious of the weakening of their cause by this disunion are in the habit of attributing it to British policy and console themselves with the belief that their masters, in order to perpetuate their subjection, deliberately foster the community jealousies which prevent their union. This belief, so comforting to national pride, ignores the two vital facts of the situation: (1) that the only union which exists between the two communities is to be found in their common membership of a State which is a British creation and (2) that the

democratisation of that State is as much a British as an Indian ideal.

SOME DIFFERENCES

The next point to be considered is the nature of the differences between Hindus and Moslems. Are they such as time and education may rectify, or are they of a kind which must permanently prevent any political union between the two communities? The first and most apparent difference is one of religion. Moslems are essentially monotheistic. The unity of God is the cardinal basis of their religion. The Hindus, on the other hand, acknowledge many gods and the attributes of Divinity which they worship are symbolised in countless images. Not merely idols made by their own hands, but living animals and natural objects are regarded as sacred or worshipped as divine. How fierce may be the fears and hatreds engendered by differences of faith, the religious wars of the world, and the struggles between Catholics and Protestants within the Christian Church, will testify. If, however, Hindus and Muhammadans were only distinguished by the ritual of their worship, such cause of disunion might well be expected to diminish with time, as it has done with other sects. But the social and racial differences between the two communities are equally strong and more difficult to reconcile.

To the Muhammadan the Hindus are not merely idolaters, they are the descendants of a race which his own ancestors have conquered and ruled, and he regards them less as fellow Indians than as an inferior race which he would subjugate to his service if free to do so. To the high-caste Hindu a Muhammadan is no better than the untouchables of his own race, inadmissible to his own household, unacceptable even as a tenant and altogether outside the pale of his own social circle. Each

regards the other as a potential enemy which he both despises and fears. The most fruitful cause of conflict in recent years has been the question of the playing of music by Hindu religious processions when passing Muhammadan mosques. The Hindus contend that the playing of music is an essential part of their religious observance and a necessary feature in their religious processions. In support of their claim they refer to a recent decision of the Privy Council which has declared the conduct of religious processions through the public thoroughfare with musical accompaniment to be a common law right, and any prohibition of such a privilege is resented as an interference with citizen rights.

The Muhammadans, on the other hand, claim that the playing of music outside their mosques disturbs their devotions, and they quote Queen Victoria's proclamation when the Crown assumed responsibility for the Government of India as justification for their claim that Government should ensure to them the undisturbed pursuance of their religious practices. Given a reasonable amount of tolerance and goodwill, this question should not present any serious difficulty. Hindus have never felt any grievance at being required to stop their music temporarily when passing a hospital, and they would not object to a similar concession to the worshippers in a Christian Church. But in recent years the strained relations between the two communities have caused each of them to make of this question a trial of strength—a test of the pressure which they can bring to bear upon Government. Both have exhibited the maximum of unreason. Hindus have shown a preference for routes on which mosques are situated and Moslems have congregated at mosques at unaccustomed hours merely for the purpose of

protesting against Hindu religious processions. In consequence serious riots have taken place all over India, resulting in considerable loss of life, and Hindu religious processions now usually require abnormal police protection.

This state of affairs is peculiar to India. In other parts of the world Muhammadan and non-Muhammadan populations have no difficulty in living at peace with each other, and the basic cause of their enmity in India must be discovered and removed before an Indian Nation can be firmly established. The fear which each community has of the domination of the other, rendered more acute as the possibility of such domination is increased by recent constitutional developments, is a symptom rather than a cause. Those who sincerely desire to understand the evil and find practical remedies must dig deeper to find the root cause. Modern psychologists are accustomed to attribute the unaccountable prejudices of individuals to unconscious motives, and it is probable that crowd animosities have also an unconscious origin. The explanations given by individual Moslems or Hindus of the prejudices of their respective communities are mostly what psychologists call rationalisations and the commonest of such rationalisations—because the one which most completely absolves either side of any responsibility—is the statement that Hindu-Muhammadan quarrels are deliberately fomented by British rulers in order to make their own hold on the country more secure. The fallacy of this convenient excuse lies in the fact that such a policy would be impossible without the connivance of the Hindus and Muhammadans themselves. The existence of an antipathy so pronounced and so unreasonable is only to be explained by a sense of injury which is not realised because it is imbedded in the

crowd unconsciousness of the Hindu people.

Dr. Owen Berkeley-Hill, in a recent paper read before the Indian Psycho-Analytical Society, has made the interesting suggestion that as the most cherished religious susceptibilities of the Hindus are associated with female tutelary deities—Kali, Durga, etc.—so, too, their conception of India is associated with ideas of woman, mother, virgin, and consequently the ferocity of their sentiments towards their Moslem fellow-countrymen is to be explained by an unconscious hatred of the Muhammadan conquerors who violated their beloved Motherland. This feeling is aggravated by the fact that the slaughter of cows is particularly provocative in the case of Moslems, since they alone kill cows ceremoniously. The festival of the Bakr-Id is thus an annual cause of irritation which tends to keep alive the feeling of animosity which their joint interests in a common country would otherwise serve to diminish. This suggestion is well worthy of the serious study of sincere Hindu and Muhammadan patriots and affords a more promising avenue towards a reconciliation of their differences than the delicately balanced pacts with which politicians seek to achieve a mere surface agreement.

In local administration Hindus and Muhammadans have no difficulty in working harmoniously, and a similar coöperation in national affairs should not be impossible, if only the leaders of the two communities would investigate the fundamental cause of their age-long feud and recognise the constellation of primitive ideas which are symbolised today in their respective religious observances. The attitude of each towards the cow is probably the key to the whole problem, and in the removal of this cause of friction lies the best hope of Indian nationalism.

SOME CONSIDERATIONS

I have already stated that the advent of the recent Reforms in India has tended to increase the hostility between the two communities as the reformed Constitution has stimulated their rivalry for power. This is not true of individuals, as the opportunities afforded to Moslems and Hindus of working together as colleagues in the same Government have rather helped to remove antipathies and create a community of interest. Hindu and Moslem Ministers have, on the whole, found little difficulty in working together, and on the Local and District Boards members of each community have addressed themselves with harmony and goodwill to the problems of local self-government. Even the political leaders of these two communities have much in common and can be very good friends. But whilst individuals have been brought together in their joint political activities their followers have developed acute group patriotism which has accentuated rather than diminished their animosities towards each other.

The Hindus who feel themselves ready to take full advantage of representative forms of Government are generally in favour of a rapid development of the Constitution in the direction of a democracy and strongly advocate the establishment of a common mixed electorate. The Muhammadans, on the other hand, who feel themselves to be backward in education and in political organisation, are more inclined to favour a slower rate of progress. They hold that in a rapid democratisation of the Institutions of Government their interests would suffer, and they desire time in which to improve the educational standard of their people, secure a larger proportion of employment in the Government

services and develop an organised political consciousness before they are called upon to face the severe competition which democratic institutions involve. In the meantime, they adhere most tenaciously to the necessity of maintaining communal representation and insist that communal electorates are absolutely vital for the protection of Muhammadan interests.

Those who consider Constitutional problems from the point of view of abstract theory are inclined to join with the Hindus in advocating a common electorate, since they hold that sectional interests are more likely to disappear, and a national consciousness to be developed, when Moslems are elected by Hindu votes and Hindus by Moslem votes. But practical statesmen have to consider group fears and prejudices as well as abstract theories, and any attempt at the present time to establish a common electorate in India would antagonise the whole Muhammadan population. The Moslems are in a minority in India, and no system which did not secure adequate protection for minorities would find favor with them. In this matter the European community, which is an even smaller minority, is inclined to side with the Muhammadans.

In opening the last session of the Indian Legislature, the Viceroy made an impressive speech in which he deplored the communal riots which had been responsible for so much loss of life in India during the last few years, and expressed his willingness to summon a conference of representative men of both communities to discuss their differences and endeavour to find some working agreement. Such a conference, if it were to take place, would undoubtedly be of value, and no man is better qualified than Lord Irwin to preside over it. But there is one feature of the present situation which is

likely to prove a serious obstacle to the success of any conference of leaders, and that is the knowledge which such leaders would possess of their inability to bind their followers by any agreement they might come to.

This difficulty was experienced by the representative Hindus and Muhammadans who met in Calcutta in the spring of 1926 to discuss the vexed question of music before Mosques. The leaders who came together were all reasonable and sensible men. If the decision had rested with them alone, they would have had little difficulty in coming to some agreement. But both the Hindu and Muhammadan leaders knew well enough that if they made the slightest concession they would be disowned by their followers. Neither side, therefore, would concede anything and both agreed that whatever decision was reached must be the decision of Government and imposed upon them both with the authority of Government. Some day, perhaps, the cumulative effect of years of strife and bloodshed, and the impossibility of either side deriving any advantage by such means, may cause the two sides to grow weary of the struggle and authorise their leaders to negotiate terms of peace on their behalf. Then, and then only, will a conference of leaders be able to take place with good prospects of success.

Before the Great War of 1914-1918 the nations of the world were not prepared to allow national interests to be submitted to any international tribunal. It was the experience of that War which alone made the League of Nations possible, and it is the recollection of what the conflict of national interests produced which alone—and even now with difficulty—enables that League to carry on its work. In India the two rival communities are not yet convinced of the futility of strife and

therefore they are not yet ready to take advantage of Lord Irwin's offer of mediation. But the number of men who are weary of strife and sincerely anxious for peace is growing every year, and before long the two great

communities will come to realise that destructively they can accomplish nothing, but that united they may build a National Government under which each may receive equal justice and equal opportunities for self-expression.

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Backward and Untouchable Classes

By MAHATMA M. K. GANDHI

UNTOUCHABILITY is perhaps the greatest evil that has crept into Hinduism. The nearest approach to it to be found in the West was the untouchability of the Jews who were confined to the ghettos. I do not know the historical origin of this disease. Socially it seems to have arisen from the desire of the so-called superior classes to isolate themselves from those whom they regarded as inferior. It is the excrescence of *varnashrama dharma* which has been misrepresented as the caste-system with which, as seen in the multitudinous castes of latter-day Hinduism, the original four divisions have little to do.

Untouchability in its mildest form takes the shape of not touching or having any social intercourse with the "untouchable." In its extreme form it becomes unapproachability and even invisibility. The approach of a man within a defined distance or his very sight in some parts of the extreme South pollutes the "superior" classes. The "unapproachables" and the "invisibles" are very few in number, whereas the untouchables are roughly estimated at sixty millions. In my own opinion this is a highly exaggerated estimate.

Though I regard myself as a staunch Hindu believing in and having great veneration for the *Vedas* and the other Hindu religious books, and though I claim, not as a scholar but as a religiously minded man, to have made a serious attempt to understand the Hindu scriptures, I can discover no warrant for this brutal doctrine of untouchability in it. Save for a few texts of doubtful authority in the *Smritis*, the whole doctrine of "un-

touchability" is utterly repugnant to the spirit of Hinduism whose glory consists in proclaiming non-violence to be the basis of religion and which lays down the bold formula that all life, including the meanest crawling beings, is *One*.

But to a reformer like me this philosophical foundation of Hinduism affords but little comfort in the face of the cruel fact that professors of that religion regard innumerable fellow beings as beyond the pale of society solely on the ground of their birth in a particular group of men and women in every way like them.

But this untouchability will soon be a thing of the past. Hindu society has become conscious of the hideous wrong done to man by this sinful doctrine. Hundreds of Hindu workers are devoting themselves to the uplift of these suppressed classes. Among the latest reformers may be named the late Swami Shraddhanandji and Lala Lajpat Rai. These, however, may not be regarded as orthodox. Pundit Madan Mohan Malaviyaji, who is accepted by all Hindus as an orthodox Hindu, has thrown in the weight of his great influence on the side of reform. Everywhere one sees the process of emancipation silently but surely and steadily going on. The so-called higher class Hindus are conducting schools and building hostels for them, giving them medical relief and serving them in a variety of ways. Be it noted that this effort is absolutely independent of the Government and is part of the process of purification that Hinduism is undergoing. Lastly, the great National Congress adopted removal of untouchability as a vital part of its constructive programme in 1920. It may not be

superfluous to add that whilst untouchability is undoubtedly a grave social wrong, it has no legal sanction behind it. So far as I am aware, there is no legal disability against the "*untouchables*."

Whilst, therefore, I am full of hope which is daily increasing, I must caution the distant reader from reading in

my hope more than I mean. The reformer has still a stiff task before him in having to convert the masses to his point of view. The masses give intellectual assent to the reformer's plea, but are slow to grant equality in practice to their outcaste brethren. Nevertheless, "untouchability" is doomed, and Hinduism is saved.

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Caste System and Its Relation to Social and Economic Life

By M. D. ALTEKAR, M.A.

Professor, Wilson College, Bombay University

THE caste system is a peculiar product of the Hindu civilisation. It has formed, particularly in recent times, a subject for the keenest controversy. Its apologists often compare it to the division of society into classes that obtains in western countries, and try to establish that the caste system and the class system are almost identical. There is, however, a fundamental difference between the two. The classes in the west are no longer based (if they ever were so based theoretically) upon the rigid principle of the accident of birth, while the castes are entirely based on that accident. Consequently, the class system is of a dynamic nature. By dint of ability, by the acquisition of scholarship or of wealth, by meritorious public service, the member of one class is translated to another in European countries. There is no theoretical prohibition of interdining and intermarrying among the classes. Above all, there is no religion mixed up, no spiritual or other-worldly considerations brought in, in the phenomenon of the classes in modern Europe (which, for the purposes of this essay, includes America).

CASTE SYSTEM OF THE HINDUS

The caste system of the Hindus, however, is a religious institution based upon considerations, which do not always refer to affairs in this world. Its rigidity is founded, as it were, on a rock. It is a static and an unchangeable system. The old books have described four castes. These are now

further divided into four hundred and more. An accurate and minute survey of castes and subcastes in India gives their number even in more than three figures. And the process of subdivision is the only dynamic thing about the system. The political problem of communalism among the Hindus (represented by the non-Brahmin movement in Madras and Bombay) is partly the result of Government's policy (these movements being the direct outcome of the introduction of the pernicious system of communal electorates), but it is mainly due to the fact that the Hindu community is divided into a large number of castes and subcastes, each caste anxious to assert its spiritual superiority to others, and each again chafing at the thought that there are other castes which look down upon it and count it as inferior. Thus the caste system has been the cause of the disintegration and, consequently, the deterioration and the present helplessness of the Hindu community.

GROWTH OF THE CASTE SYSTEM

History tells us that in India every vocation gave birth to a new caste, and as time went by the original four castes had been subdivided into many more. Hereditary vocations have an economic advantage, but, as will be seen, this economic advantage was more than counterbalanced by the social disadvantages that the rigidity of the system imposed and the feelings of superiority and inferiority based on birth and vocation once introduced became the firm

rock on which dissensions and bitter enmities were securely reared, and these have proved to be a disastrous impediment in the path of progress of the modern Hindu society. Besides the principle of vocation, another curious element entered into making the castes more rigid and exclusive. A large mass of the Hindu community bore the mark of inferiority. Consequently, a new sect and a new religion, which theoretically (and often practically) removed this inferiority and based its influence on the principle of equality irrespective of the accident of birth or the nature of the vocation, was bound to attract the people.

The Hindu system was assaulted by such sects, from time to time, and the only way for it to preserve itself was to absorb the more attractive points in each such sect. Vegetarianism, for instance, appears to be a gift of Jainism. The practice of creating Sanyasins on a vast scale appears to have been induced by a desire to compete with the order of the Buddhist Bhikshus. As something new was added, however, to the definition of Hinduism, the castes became more and more exclusive. Besides birth and vocation, food and clothes, and even place of residence, were matters that conferred superiority and sanctity, or otherwise, and a disposition arose among the people for each one to claim superiority over the rest. This superiority became, in the course of time, more and more a matter of arrogant claim rather than a function of conduct. That is how hypocrisy arose and became a necessary part of men's behaviour. The Shastras have laid down the duties of the four castes. Even before the advent of the western education, these duties were in a chaotic condition. Brahmins, who must not become servants, took to service to earn a livelihood and took to agriculture. Many a peasant became

a soldier. The original edifice of caste theoretically collapsed, but the feelings of superiority and inferiority based on birth and vocation grew intenser, and the centrifugal tendencies gathered momentum.

All this has been enormously accentuated, in later days, owing to the advent of a new education and modern money. At present, and for some time past, all the causes that determined superiority, such as vocation, food, place of residence, and rituals, etc., have practically ceased to operate. The one thing that now sustains the caste system is the factor of birth or heredity. Everyone takes up that vocation which he chooses, or is forced to choose, irrespective of his caste which is now entirely the result of the accident of birth and of nothing else. The superiority claimed on this account merely, therefore, excites greater jealousy and resentment than it did in earlier days.

ECONOMIC EFFECTS

The economic effects of the caste system no longer obtain as widely as they did in the past. These effects were due to the principle of the division of labour. Proficiency in a handicraft handed down from generation to generation gathers stability and strength, and thus the particular art benefits and its products are superior to those produced under dissimilar circumstances. Specialisation was thus the economic advantage of the caste system. At the same time, over-specialisation has its disadvantages. It is an impediment to economic elasticity; and when elasticity weakens, the very economic structure, which is after all a part of the social structure, is shaken to its foundations. A man must do what his father did. If he cannot do it, he must do nothing else. That means that he must be put down

on the debit side of the social balance sheet. This result undoubtedly counterbalanced any advantage that specialisation conferred.

In recent times, however, the influence of the caste system on vocations has considerably weakened. The leavening of society by education and by the new money power has resulted in restoring economic mobility. A man does, not necessarily what he must do according to the Shastras, but what he finds it convenient to do. A cobbler by caste, if he gets the opportunity, becomes a *savant* in economics or philosophy, and a Brahmin, when education does not make him a deputy collector or a subordinate judge, becomes a tradesman and sells anything from ghee and sugar to boots and shoes. The Kshatriya, no longer required to fight, unless he has secured a post in the Indian army, gets an opportunity to go to school and takes to the solving of the intricacies of the village accounts, or administers justice in the *taluka*. The gradual breaking up of the joint family system has considerably helped this vocational elasticity. The equality of man before law is another important factor contributing to the same result.

There are still in India many castes which are described by their vocations. The richer and more educated among them, however, lose no time in giving up the hereditary profession and in seeking more congenial and "respectable" work. The advent of machinery has also helped this divorce between a caste and its time-honoured vocation. Machinery kills manual art, and when a craftsman loses his economic value owing to the introduction of machinery, he will not necessarily stick to the old job in the altered environment. The job will also be invaded by many people, who would have never thought of doing so before the age of machines.

A man who is not a tailor by caste, for instance, may buy a sewing machine and set up as a tailor, because it is easier to manipulate the machine than to be proficient in the old manual art of tailoring.

The economic aspect of the caste system, therefore, has been getting into the background, and probably its social consequences have been accentuated. The caste divisions in the Hindu society no longer serve any useful economic purpose. It is now preëminently a social institution entirely based upon the accident of birth. Its immediate and continuous result is the engendering of a feeling of deep and bitter resentment of almost each caste against every other caste. The resentment sometimes reaches such proportions that instead of realising that the bettering of some one caste means the bettering of a part of the whole social organism and therefore the bettering of the whole organism, the principal fear that dominates the mind of each caste is that some other caste will get better advantages than itself, and it often tries, therefore, not to improve its own position, but to pull down the other caste to a lower level. This mutual suspicion and ill feeling is the most regrettable consequence of the caste system at the present time.

SOCIAL CONSEQUENCES

The caste system was but the stereotyping of the exclusive tendencies that developed in society. The intolerant attitude of the Muslim invaders of India accentuated this exclusiveness which became the sign of spiritual superiority if not of material prosperity. In fact, the less the material prosperity of a man, the more he was anxious to establish his claim to spiritual superiority, and he tried to substantiate that claim by some peculiarity of dress, of diet, or of conduct. Its

practical expression took the form of disdain for everybody else. In some instances this disdain resulted into profound bitterness, and even enmity, when it stamped a man as impure by establishing sexual irregularity somewhere in his ancestry. There are whole subcastes that are made to bear the badge of inferiority in this outrageous fashion. Sometimes even lesser causes were sufficient to make a new caste. Some people in a village swallow by mistake or by deceit some forbidden food. If they are Brahmins, they become Brahmins of an inferior grade on that account. This is the process that has multiplied castes and subcastes at an alarming pace. And that is how the four castes are subdivided into hundreds. The process operated even among the so-called depressed classes. They may be untouchables to the rest of their co-religionists, but among themselves they have degrees of untouchability and superiority.

The social consequences of the caste system have proved to be extremely unfortunate. In a static society regulated by a strict caste system, the place of each individual is fixed from the moment he is born and that place cannot be changed under any circumstances in this world and in this birth. This is a total negation of the dignity of man, as a man, and the democratic principle of individuality. It entails terrible loss for the society in every direction. It runs counter to the principle of selection which reigns supreme in nature. It gives a sort of stability to society provided the habit of "no questions asked" is inculcated. For that reason it kills all initiative and men lose their faith in effort and the pernicious doctrine of fatalism rules supreme. That is the worst consequence of the caste system. But for good or for ill, questions are being

asked, and they are asked more and more as education spreads and free discussion makes progress. The old society was so constructed that the lower classes were absolutely dependent for their very livelihood on the goodwill of the higher classes. The old village system of India is an instance to the point. Every depressed caste was given particular work, and remuneration was provided for that work from the only productive agent of the day, the land, which was almost exclusively owned by the non-depressed castes. The untouchables could earn their livelihood only in that way, and in no other. In a society based on status, contract was, of course, not tolerated, and thus the caste system reduced all but the fortunate few to a helpless position.

The feelings of resentment thus engendered have been growing up, unconsciously it may be, for centuries in the bosom of those who are held to be inferior, and at present the sudden, and therefore the terrific explosion of that resentment, is being witnessed all over the country, and the outburst is so great that the political unity, laboriously built up for half a century by patriotic men, has been consumed in the twinkling of an eye by the devouring flames of communal strife. The misfortune does not end there, however. Man is a social animal, and it is by mutual knowledge and understanding that sympathy and solidarity are produced. But the caste system practically demands that men must not mingle together intimately. They must not interdine and they must not intermarry. And thus the great sources of reconciliation are not allowed to exist. It is not maintained that caste rules are being strictly observed everywhere. They are not. Among the better-to-do classes, wealth and education have rendered them less binding. But even

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among them the social intercourse is of a limited nature. It scarcely exceeds the drawing-room formalities. Except in cities and in big towns, the social intercourse between the different castes is so limited as to approach the magnitude of the mathematical zero. One curious indication of the situation is found in vernacular fiction. Its descriptions rarely touch the backward and the depressed classes except in a few cases. The reason is that the writers who mostly belong to the more fortunate classes know nothing about them. Unity is a word the inner meaning of which rarely, on this account, penetrates the secret places of the heart.

The gloominess of the picture is somewhat offset by the fact that communal consciousness has resulted in

sincere efforts to improve the lot of the particular community or caste, educationally and economically, and by the consequent hope that the narrow form which this consciousness usually takes, will, in the course of time, with the spread of education and development of sober thought, emerge in a broader outlook as national consciousness. The praiseworthy efforts of such institutions as the Brahms Samaj and the Arya Samaj, the Depressed Classes Missions and the Servants of India Society to counteract the poison of caste, also inspire the hope that the future will be bright in spite of the dreary past and the quarrelsome present, and so this survey of the results of the caste system may be brought to a close in an optimistic vein.

Europeanization and the Ancient Culture of India

By THE LATE LALA LAJPAT RAI, M.L.A.

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IT is difficult to define culture. I have so far not come across such a definition as would be at once satisfactory and exhaustive. In the absence of any such comprehensive definition of the term culture one is justified in describing a particular country's culture according to his notions of what a culture should be. My conception of culture includes:

- (a) A fairly high standard of comfort in life.
- (b) A developed taste for literature and fine arts.
- (c) Developed industries indicating refinement and taste.
- (d) A developed and fairly extensive literature.
- (e) A philosophical and well-reasoned conception of religion.
- (f) High social position of women.
- (g) Respect for individual liberty with due regard to the strength and good of the whole society.
- (h) High ethical standards in war.
- (i) The economic welfare of the common man, and
- (j) A high standard of public and private hygiene.

Judged from these standards one may confidently assert that India has fulfilled these conditions almost always during the period known to us.

Hindus believe that the Vedas belong to the most remote period of Indian life. European scholars do not, however, accept that view. It is, however, admitted that India is one of the most ancient countries of the world. European scholars are apt to start the history of culture and democracy from the Greek period of civilization. The Greeks and after them the Romans were the founders of civiliza-

tion in Europe. That the East had developed a high state of civilization and culture long before Greece came into prominence in human life is now acknowledged by scholars. Egypt, China, Babylonia, Assyria, Persia and India had all enjoyed long periods of civilization. It is now freely admitted that Europe (or for that matter, Greece) borrowed its art and civilization from Egypt. Whether the civilization of Egypt was an indigenous one or she had borrowed it from some other source is a moot question. However, no civilization can be wholly borrowed nor can any be entirely indigenous, if we are to assume that at no period of world's history were the different parts of the world so isolated from each other as to bar the possibility of some international communication or exchange.

Today the world is rather a small place, distances and obstacles to free communication having been destroyed by steam and electricity. But even when the world had no such facilities, the different parts of the world did know each other either through markets or through universities. Personally I do not believe that civilization had its birth in any one place or in any one country. The world has always been inter-dependent, always borrowing and giving ideas as well as commodities. I believe all civilizations have developed in that way. India was no exception to this nor was Europe or Egypt.

RELIGION

India is a vast country. It has undergone vast changes, geographi-

cally, historically, as well as culturally. At first sight it seems absurd to give one name to all Indian civilization. But a close examination of facts and data amply proves the unity of Indian civilization, at least for the present geological period. Ever since the beginning of Indian history Indian civilization has been more or less religious. One may retort that this could equally be said of other civilizations too. I do not admit that. Religion has had to do something with all civilizations. That is true. But religion has not been the dominating feature of them all. Take, for instance, the European civilization. Some people call it a Christian civilization, but it has no relation whatsoever with the religion preached by Christ. It may have been so in certain epochs, but not always, nor now. It has not had that continuity of religious stamp on it that the civilization of India can claim. I am not saying this because I claim any credit for that. I am simply stating a fact. Ever since India has had a literature that is literature, the civilization embodied therein, and the life lived by the people who composed that literature have been dominated by religion.

Religion has had its developments in India but fundamentally and in its essence it has remained the same. When I speak of religion in relation to India, I mean the religion followed by the great bulk of its population, that is, Brahmanism; Buddhism and Jainism are daughters of Hinduism. Their philosophy is only an extension or an amplification of the Hindu philosophy. Their doctrine in its essence is a Hindu doctrine. I will quote only two opinions, one about the unity of its civilization and the other about the dominance of religion. Dr. V. A. Smith, the historian of the "Early History of India," says:

Her type of civilization, too, has many features which differentiate it from that of all other religions of the world, while they are common to the whole country or rather sub-continent, in a degree sufficient to justify its treatment as a unit in the history of the social, religious, and intellectual development of mankind.

Professor Lowes Dickinson of Oxford, in his essay on the *Civilization of India, China and Japan*, says:

I conceive the dominant note of India to be religion; of China, humanity; of Japan, chivalry. But religion to Indians means more than praying for children, praying for rain, praying for healing, praying for everything they want. . . . Observers believe that it is, too, and I am inclined to think they are right. That even the Indian peasant does really believe that the true life is a spiritual life; that he respects the saint more than any other man; and that he regards the material world as "unreal," and all its cares as illusion. He can not, of course, and does not, put this conviction into practice, or Indian society would come to an end.

Now let us see the chief distinguishing features of Hinduism. It is a religion which, in its manifold phases, developments and manipulations, insists on seeing one in many and many in one. Within this limit it gives the fullest possible freedom of thought, belief and worship to all its votaries, the fullest possible liberty to the individual in the realm of thought, belief and worship. This distinguishing feature of Hinduism is reflected in its social institutions.

What is the caste system? It is the division of the body of the "Purusha" into four parts (varnas) (see X Rigveda) resulting eventually in the reemerging of all into one at the time of *Moksha*. "The poets of the Rigveda," says Professor Rapson in the *Cambridge History of India*, p. 54:

know nothing of caste in the later and stricter sense of the term; but they recog-

nise that there are divers orders of men. Before the end of the period covered by the hymns of the Rigveda a belief in the Divine origin of the four orders of men was fully established; but there is nowhere in the Rigveda any indication of the castes into which these orders were afterwards sub-divided.

At no period of Indian history has the caste system stood in the way of a man of the lowest caste becoming divine. The "untouchables," the Pariahs of Madras, have produced saints whose shrines and images are worshipped by Brahmin and Sudras alike, in the temple of Srirangam at Trichnopoly. The same may be said of *Kabir*, a *Julaha* or weaver of northern India, or of *Sur Das*, and many others.

Speaking politically the caste system of India has been a curse. As a social institution I have said in another place¹ that "Today the Indian caste system is beyond doubt an anachronism." It is fast disintegrating. Other communities and other nations have known of caste or class divisions, too, but in their case the distinguishing feature of these divisions has been either wealth or economic position. Not so in India. In India a wealthy Brahmin may never attain salvation, while the poorest Pariah may. I am not praising the system. I am again only stating a fact.

Coming to Indian literature, there also one finds religion as the dominant note.²

¹ *Unhappy India*, 1st edition, p. 88.

² Says Professor Rapson (*Cambridge History of India*, p. 58): "Literature controlled by Brahmanism or by Jain and Buddhist monks, must naturally represent systems of faith rather than national ties. They must deal with thought rather than with action, with ideas rather than with events. And in fact, as sources for the history of religion and philosophy, and for the development of those sciences which, like grammar, depend on the minute and careful observation of facts, they stand among the literatures of the ancient world unequalled in

Of late some scholars have made good use of the Buddhistic *Jatakas* and the *Puranas* in building up ancient Indian history.

LITERATURE AND ART

There has been no break in the continuity of Hindu literature. Literature of the highest type, covering all the departments of knowledge, science, and art exists in India from before 3000 years B.C. up to date. I wonder if there is any other country in the world which can establish such a claim unless it be China. India stands unique in this respect. Having spoken of religion and literature, we come to the art of India. For long, scholars continued to hint that India borrowed its art from Greece, but the recent discoveries at Mohenjodaro and Harappa have set this matter at rest.

The art of the Indus is distinct from that of any neighbouring country, notwithstanding that there are certain elements in common. The best of the figures on the engraved seals—notably the humped Indian bulls and short-horn cattle—are distinguished by a breadth of treatment and a feeling for line and form unequalled in the contemporary glyptic art of Elam or Mesopotamia or Egypt? The modelling, too, in faience of the miniature rams, monkeys, dogs and squirrels is of a very high order—far in advance of what we should expect in the fourth and third millenniums B.C. Contrasted with these, the few examples we possess of human figures, whether executed in marble, stone, clay or bronze, are strangely uncouth and suggest

their fullness and their continuity. But as records of political progress they are deficient. By their aid alone it would be impossible to sketch the outline of the political history of any of the nations of India before the Muhammadan conquest. Fortunately two other sources of information—foreign accounts of India and the monuments of India (especially the inscriptions and coins)—supply to some extent this deficiency of the literatures, and furnish a chronological framework for the history of certain periods."

that for some reason or other the artists could have had relatively little experience in delineating the human form.

About Industrial art also the following evidence is sufficiently conclusive:

Numerous spindle wheels in the débris of the houses attest the practice of spinning and weaving, and scraps of a fine woven material, which appears to be linen, have also been found.

The ornaments of the rich were of silver and gold or copper plated with gold, of blue faience ivory, carnelian, jadite, and multi-color stones of various kinds. For the poor, they were mainly of shell of terracotta. Many examples of both kinds are exhibited in the collection. Especially striking are the girdles of carnelian and gilded copper and some of the smaller objects, that is, earrings and "netting" needles of pure gold, the surface of which is polished to a degree that would do credit to a present day jeweller.

Besides gold and silver, the Indus people were familiar with copper, tin and lead. Copper they used freely for weapons, implements and domestic utensils; daggers, knives, hatchets, sickles, celts chisels, vessels, figurines and personal ornaments, amulets, wire, etc. Most of these objects are wrought by hammering, but examples of cast copper are not unknown.

Common domestic vessels were of earthenware. Their greater variety of shapes—each evolved for some particular purpose—evidence a long period of antecedent development, though it is curious how few of the vases are provided with handles. Most of the pottery is plain undecorated red ware, but painted ware is by no means uncommon. As a rule, the designs are painted in black on a darkish red slip and consist of geometric and foliate devices with occasional figures of animals. A few specimens of polychrome decoration in red, white and black have also been met with. Certain of the ceramic shapes and ornamental patterns betoken a connection with Baluchistan, as well as with Elam and Mesopotamia.

The presence of inscribed seals, sealings and other objects in almost every building is sufficient indication that the citizens

must have been familiar with the art of writing, and it may be inferred that it was employed for business and other purposes.

I have given these extracts in full because in my judgment they are almost conclusive proof of a high degree of material civilization in the Indus valley region of India some 5000 years ago.³

It will be relevant to quote further here the opinion of Sir John Marshall, Director-General of Archaeology, about the level of the general culture of the people of India at that time:

That by the above date city life in Harappa and Mohenjodaro was already remarkably well-organized and that the material culture of the people was relatively highly developed, is evident. Indeed, the roomy and well-built houses and the degree of luxury denoted by the presence in them of walls and bath-rooms, betoken a social condition of the citizens, at least equal to that found in Sumer, and markedly in advance of that prevailing in contemporary Babylonia and Egypt, where the royal monuments of the kings—palaces, tombs and temples—may have been superior to anything of their class to be found in India, but where no private dwelling houses of the citizens have been discovered at all comparable with those unearthed in India.

ECONOMIC CONDITION

About the economic condition of the people of India, in the historical period, we have the evidence of literature, laws and folklore. The historical period in India has been placed about 750 B.C. "The Sutras precede the earliest works on Buddhism. The earliest known Parana precedes the later law books by centuries," (says the *Cambridge History of India*). Taking all this into consideration and looking at the life of the peoples of

³ For subsequent developments of Arts and Industries, I must refer the reader to the writings of Havell and Ananda Coomaraswamy.

North India, as it survives in the records of their folklore, and of the discipline of the brethren who lived in close touch with all classes, Mrs. Rhys Davids, the writer of the chapter on Economic conditions in the *Cambridge History of India*, has come to the following conclusion:

And we have seen agriculture diligently and amicably carried on by practically the whole people as a toilsome but most natural and necessary pursuit. We have seen crafts and commerce flourishing, highly organised corporately and locally, under conditions of individual and corporate competition, the leading men thereof the friends and counsellors of kings. We have found "labour" largely hereditary, yet, therewithal, a mobility and initiative, anything but rigid, revealed in the exercise of it. And we have discovered a thorough familiarity with money and credit ages before the seventh century A.D.

The same learned writer says

that the rural economy of India, at the coming of Buddhism was (*i.e.*, about the fifth century B.C.) based chiefly on a system of village communities of land owners or what in Europe was known as village proportionship.

Speaking of the same period Professor Rhys Davids has said in his *Buddhist India*:

There was security, there was independence, there were landlords and no paupers. The mass of the people held it degradation to which only dire misfortune would drive them, to work for hire.

These three quotations give a good picture of economic conditions in ancient India. Megasthenes and other Greek writers have testified to "the high level of veracity and honesty" in the India of the Mauryan period (300 B.C.).

About the health of the people of India, in the Mauryan period of Indian history, which almost begins

with the "raid" of Alexander (323 B.C.), we find the Greeks stating:

There was really very little for a doctor to do in India except to cure snake bites since diseases were so rare in India (*Cambridge History of India* P. 406).

Another Greek writer described the Indians to be singularly free from disease and long-lived. The people of Sind, Onesicritus said, sometimes reached 130 years.⁴

THE STATUS OF THE WOMEN

As for the status of the women in ancient Indian society one may fairly assume the accuracy of the following conclusions:

- (a) The Vedic marriage was usually monogamic though polygamy was not unknown probably among the princely class.
- (b) Polyandry was unknown.
- (c) The poetical idea of the family was decidedly high, and we have no reason to doubt that it was often actually fulfilled (Macdonell and Keith's *Vedic India*, p. 488).
- (d) Rigveda X, 85, discloses a society in which the parties to the marriage were grown up persons competent to woo and be wooed, qualified to give consent and make choice (Ragozin's *Vedic India*, pp. 372 and 373).
- (e) The same hymn gives evidence of the complete supremacy of the wife as mistress of her husband's house (Ragozin's *Vedic India*, pp. 372 and 373).
- (f) No religious ceremony could be considered complete and efficacious unless both husband and wife joined in it.

⁴ The intellectual powers which they displayed in arts and crafts were attributed, like the health and longevity, to the purity of the air and the rarified qualities of water, but their health was also attributed to the simplicity of their diet and their abstinence from wine. (Pp. 407 and 408 *Cambridge History Of India*.)

- (g) The words *Pati* (Master) and *Patni* (Mistress) signify equality of general position.
- (h) There was no seclusion of women.
- (i) No trace of *Sati* is to be found in the Vedic literature.
- (j) Women enjoyed full rights of property (*Stridham*).

This is with regard to the Vedic period. In the Epic period the position of women did not deteriorate. There was the same position of general equality. The Epic period expressly recognises marriages of love contracted otherwise than with the consent of parents. The tendency of the Epic period seems to have been to confer the status of marriage on all permanent unions, however effected,—permanent in the intentions of the parties. In fact even irregular unions were declared valid. Hindu law really makes no mention of illegitimacy of children. There are no caste distinctions. The wife enjoys full rights of property in her estate. Singing and dancing and riding were considered accomplishments, and otherwise also sex relations were of the best kind. Women were freely and highly educated.

It is during the Sutra and the Smirti period that the position of the Indian woman becomes one of dependence, and caste restrictions are enforced. The position of a Hindu mother has always been and is infinitely superior to anything known in any other part of the world. As regards inheritance in a divided Hindu family, the widow, the mother, the daughter and the sister all have rights of inheritance under certain circumstances. The widow has a right of adopting a son to her husband under certain circumstances, a right perhaps known to no other part of the world. It is maintained that if one compares, period by period and epoch by epoch, he will find that at no

period of the world's history before the nineteenth century, was the general position of the Indian woman inferior to her sisters elsewhere, except perhaps as far as it was affected by the custom of child marriage and the prohibition against the remarriage of widows. In the best period of ancient Indian culture, however, both these customs were non-existent. In medieval India they were the product of political conditions.

WAR TIME SANCTIONS

The standard of culture in a community is, I think, best determined by the treatment it sanctions for enemies in war time. In the war of 1914-18, "Kill the enemy and the enemy nation by all means available" was the principle. The Indians, however, had no bombs, and no submarines. They did not evidently know of poisonous gases, nor did they blockade whole countries for the purpose of starving them to subjection. Nevertheless, the Epic period of India shows ideals of war loftier than anything known anywhere else in the world. The Mahabharata and the Sutras lay down high ideals of war morality. The warrior was specially enjoined to avoid doing any harm to women, old men, men bearing no arms, and non-combatants. To kill the enemy by fraud, or to starve or blockade him was considered unworthy of a warrior.

Apastamba and Baudhyana and Gautama prohibited the use of poisoned arrows or an attack on those who supplicate for mercy or are helpless, such as those who have ceased to fight, or surrendered. That these rules were followed in actual practice can be abundantly proved by the pages of Rajput history. Even in medieval India Rajputs showed more humanity and chivalry in war than the Europeans did in 1914-18.

Gautama X, 18, lays down that a

king commits a sin if he injures or slays in battle

those who have lost their horses, chariot-eers, or arms, those who join their hands (in supplication), those who flee with flying hair, those who sit down with averted faces, those who have climbed (in flight) on eminences or trees, messengers, and those who declare themselves to be cows or Brahmins.

Baudhyana on p. 200 says:

Let him not fight with those who are in fear, intoxicated, insane or out of their minds, (nor with those) who have lost their armour, (nor with) women, infants, aged men, and Brahmanas.

The Greek writers have made it a point worthy of mention that the cultivators took no part in war.

"War rolled past them. At the very time when a battle was going on, the neighboring cultivators might be seen quietly pursuing their work of ploughing or digging unmolested" (*Cambridge History of India*, p. 410).

THE ART OF GOVERNMENT

I am sorry that considerations of space forbid me from saying something about the art of Government in ancient India. Government in ancient India was much more civilised and humane and in a way more democratic than it has been in any country in the world before the eighteenth century A.D. In certain respects it would bear good comparison even with modern Governments of Europe and America.

THE EFFECT OF MODERN EUROPEAN CULTURE

So much about the spirit of the culture of Ancient India. Now I shall discuss the effect of modern European culture on it. It is too early yet to speak of the permanent effects of European culture on Hindu civilization. One can only mention certain tendencies. As far as religion is con-

cerned, India has little to learn from Europe.

Neither Christian dogma, nor Christian theology, nor European philosophy have made any appreciable impression on the Indian people. No doubt the number of Christians is increasing every year, but the reason for it is other than the superiority of Christian doctrine. European non-religionism also is not having much vogue. Speaking of the nation as a whole, India is not likely to lose her spiritual mentality. But her spiritual outlook is bound to be transformed by the general European outlook on life. Back to the simple religion of the Vedas with their joyful outlook on life may be the outcome, but it is dangerous to prophesy. In the matter of the rights of women, the change in the mentality of educated India is distinctly progressive and it may be confidently asserted that *Purdah* (seclusion of women), early marriage, the prohibition against widow remarriage, will go. There has never been any *Purdah* in the south. In the north its rigour has been confined to city folk of respectability, mostly *Musalmans*. In the villages throughout India there has hardly been any *Purdah*. The custom of child marriage is fast disappearing. That also was confined to particular classes. Prohibition to widow remarriage was never universal. It was generally confined to the higher caste. Among these, too, widow remarriages are multiplying. The present custom of marriage being arranged by parents will also cease to function and marriage by choice among adult persons will take its place. The immediate cause of it may be the impact of European civilization, but it will not be a new thing. The economic independence of women may come, but only to a limited extent, as Indians on the whole still loath to think of their women

having to earn either for themselves or for others. There is a deep-rooted sentiment against it, with a reason behind it. Birth control is, I think, an entirely new idea for India. It will grow. As regards the improvement of the Hindu women's position for the purposes of inheritance, that too may come, though the break up of the joint family system and the power to dispose of one's property by will make it rather unnecessary.

In education the women are coming into their own. That again will be reproducing ancient conditions. The effect of European art on Indian art was at first horrible. But the Indian art and ideals are fast recovering, and will probably create an entirely new system peculiar to India and her civilisation.

In the matter of Industrial art, Europe's cheap designs have almost completely destroyed Indian ideals. Machine has killed the soul, and the result is only a caricature of its former self. There is a revival in this respect too. As far as clean and hygienic living is concerned, India can not do

better than revert to her ancient ideals. European influence in this respect is partly good and partly bad. The bulk of the people are too poor and too ignorant to observe rules of hygiene, and the Government is too callous to spare money for public health arrangements. Things may improve slowly.

On the whole, I am inclined to think that the influence of European culture on the Indian mind has not been much for the good of the latter. In the long run, as I have already remarked, no culture can remain purely local. India will certainly learn many things from Europe, and Europe also, as she comes to know India better, will grow in her appreciation of ancient Indian culture. European science and European learning is producing a revolution in people's mentality all over the world and India can not and will not remain unaffected. Nor is there any reason why she should. India wants to take her proper place in the up-to-date nations of the world, and has no ambition to be an isolated unit.

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